

MAINE STATE HARNESS RACING COMMISSION

Limited Delegation of Authority to Chair to Stay Enforcement of a Penalty Imposed by Officials

Initial Effective Date:

June 21, 2023

Expiration Date:

December 31, 2025 unless rescinded earlier

Relevant Law

Pursuant to 8 M.R.S. § 263-A(1)(A) and (D), the Commission is required to adopt rules for the conduct of harness racing and the procedures for hearing appeals from decisions of track judges. Section 263-A(2) mandates that the Commission hear appeals of decisions of track judges involving violations of the harness racing statutes and rules adopted under those statutes. Section 263-A(F) requires the Commission to adopt rules for any other responsibility assigned to it under the harness racing laws.

Pursuant to § 279-A, the Commission is authorized to adopt rules for the for the conduct on the race track and grounds of owners, trainers, drivers, grooms and all other persons participating in harness racing.

Pursuant to 8 M.R.S. § 279-B, the Commission is authorized to establish a schedule for fines for violations of the harness racing rules.

Commission Rule Chapter 7, Racing, contains the rules for the conduct of licensees on the race track and grounds of race meets. Driving Violations and Racing Violations are described in Sections 53 and 54, and other violations are identified in various other sections of Chapter 7.

Commission Rule Chapter 17, Rule Violations; Penalties, contains the penalty provisions for violations of Commission statutes and rules.

Commission Rule Chapter 19, Protests, Appeals, and Race Date Assignment Hearings contains rules regarding appeals of decisions and rulings of judges and track officials. Chapter 19, § 3 provides the process for the Commission to hear appeals. Section 3(2) provides that when officials impose a penalty for a violation, the Commission or Chair may grant a stay of the enforcement of that penalty when a close question of facts exists, or there is a dispute regarding the rule interpretation for the violation. According to Section (3)(1)(E), unless a stay is granted pursuant to Chapter 19, an appeal of a racing official's decision to the commission shall not affect the decision until the Commission acts on the appeal or otherwise ordered by a Court.

Ongoing Issue

Due to a misunderstanding, licensees have been granted stays of penalties by Commission Staff instead of through the process outlined in Chapter 19.

Limited Delegation of Authority to Chair

Consistent with its statutory authority found in 8 M.R.S. § 263-A and the 279-B(2) and its authority according to Chapter 19, § 3(2), the Commission delegates to the Chair the authority to stay enforcement of a penalty imposed by judges or other officials when all the following circumstances are met:

1. Judges or other officials have imposed a penalty against a licensee for a violation of Chapter 7;
2. The licensee has timely appealed the judges' or other officials' decision and imposition of penalty pursuant to the requirements of Chapter 19, Section 3;
3. The licensee has requested a stay of enforcement of the penalty in conjunction with his or her appeal; and
4. The penalty for the alleged rule violation includes a monetary fine, a license suspension, or both.

The Chair shall act on all requests for stays as soon as possible. However, upon a licensee's appeal and request for a stay under the circumstances stated above, an immediate stay of enforcement of a penalty imposed by judges or other officials shall be in place until the Chair grants or denies the request.

This limited delegation of authority does not apply to immediate suspensions issued under 5 M.R.S. § 10004(6). This limited delegation of authority will expire on the earlier of either the expiration date indicated above, or upon further action by the Commission, at which time the Commission shall review the actions taken pursuant to this limited delegation of authority and determine whether to renew or modify this delegation.

Adoption

Adopted by the Commission on June, 21 2023, by a unanimous vote of 4 in favor 0 opposed.¹

Date: June 21, 2023



Harry Center, Chair

¹ The Commissioners who voted to adopt this Limited Delegation of Authority were Chair Harry Center II, Barry Norris, Patricia Varnum, and Diane Dunn. Commissioner Norris was present remotely pursuant to the Commission's Remote Participation Policy.