

**Chapter 260-34 WAC
DRUG AND ALCOHOL TESTING OF LICENSEES**

Last Update: 3/15/13

WAC

260-34-010 Primary purpose.
260-34-020 Drug and alcohol violations.
260-34-030 Testing.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

260-34-035 Exercising the privileges of their license. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-035, filed 3/11/05, effective 4/11/05.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-040 Definitions. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-040, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-040, filed 4/15/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-045 Violations of the privileges granted licensees. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-045, filed 3/11/05, effective 4/11/05.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-050 Reasonable suspicion. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-050, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-050, filed 4/15/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-060 Refusal to test. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-060, filed 3/11/05, effective 4/11/05; WSR 89-13-006 (Order 89-02), § 260-34-060, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-060, filed 4/15/88.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-070 Responsibility to report valid prescriptions. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-070, filed 3/11/05, effective 4/11/05; WSR 89-13-006 (Order 89-02), § 260-34-070, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-070, filed 4/15/88.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-080 Testing procedure. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-080, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.040. WSR 00-07-038, § 260-34-080, filed 3/6/00, effective 4/6/00. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-080, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-080, filed 4/15/88.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-090 A positive test. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-090, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020. WSR 03-05-071, § 260-34-090, filed 2/18/03, effective 3/21/03. Statutory Authority: RCW 67.16.040. WSR 00-07-038, § 260-34-090, filed 3/6/00, effective 4/6/00. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-090, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-090, filed 4/15/88.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-100 Confidentiality of test results. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-100, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.040. WSR 00-07-038, § 260-34-100, filed 3/6/00, effective 4/6/00. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-100, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-100, filed 4/15/88.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-110 Consumption of alcohol. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-110, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-120 Alcohol violations defined. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-120, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-130 Consumption reasonable suspicion for testing. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-130, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-140 Alcohol levels determined. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-140, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-150 Alcohol testing. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-150, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-160 Refusal to be tested. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-160, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-170 Alcohol violation sanctions. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 88-17-075 (Order 88-05), § 260-34-170, filed 8/19/88.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-180 Testing expense. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 05-07-066, § 260-34-180, filed 3/11/05, effective 4/11/05; WSR 89-13-006 (Order 89-02), § 260-34-180, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-180, filed 4/15/88.] Repealed by WSR 06-07-064, filed 3/10/06, effective 4/10/06. Statutory Authority: RCW 67.16.020 and 67.16.040.

260-34-190 Severability. [Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-190, filed 6/9/89.] Repealed by WSR 05-07-066, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.020 and 67.16.040.

WAC 260-34-010 Primary purpose. In order to protect the integrity of horse racing in the state of Washington, and to protect the safety of the public and all participants, the Washington horse racing commission intends to regulate the use of any illegal controlled substances, the use and possession of marijuana, and the use of alcohol by licensees at all race meets. This chapter shall be applicable to all licensees or applicants on the grounds of any racetrack during its licensed race meet.

[Statutory Authority: RCW 67.16.020. WSR 13-07-044, § 260-34-010, filed 3/15/13, effective 4/15/13. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 06-07-064, § 260-34-010, filed 3/10/06, effective 4/10/06; WSR 05-07-066, § 260-34-010, filed 3/11/05, effective 4/11/05; WSR 89-13-006 (Order 89-02), § 260-34-010, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-010, filed 4/15/88.]

WAC 260-34-020 Drug and alcohol violations. No licensee or applicant, while acting in an official capacity or participating directly in horse racing, will commit any of the following violations, while on the grounds of a licensed race track during its licensed race meet and periods of training:

(1) Be under the influence of or affected by intoxicating liquor and/or drugs, have an alcohol concentration of 0.08 percent or higher, or have within their body any illegal controlled substance;

The alcohol concentration for persons on horseback may not be 0.02 percent or higher.

(2) Engage in the illegal sale or distribution of alcohol;

(3) Engage in the illegal sale or distribution of a controlled substance or possess an illegal controlled substance with intent to deliver;

(4) Possess an illegal controlled substance;

(5) Possess marijuana or be under the influence of or affected by marijuana, or have in their body any measurable concentration of tetrahydrocannabinol (THC);

Possess any equipment, products or materials of any kind, which are used or intended for use in injecting, ingesting, inhaling or otherwise introducing into the human body marijuana;

(6) Possess on the grounds of any licensed race meet any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing an illegal controlled substance, or any equipment, products or materials of any kind, which are used or intended for use in injecting, ingesting, inhaling or otherwise introducing into the human body an illegal controlled substance; or

(7) Refuse to submit to blood, breath, oral fluids, and/or urine testing, when notified that such testing is conducted pursuant to the conditions of WAC 260-34-030.

Failure to provide a blood, breath, oral fluids, and/or urine sample when directed or intentional contamination of the sample by any person tested for the purpose of preventing accurate analysis of the sample, or other actions with intent to subvert the test, will be considered a refusal to submit to a test.

"Controlled substance" or "drug" as used in this chapter means any substance listed in chapter 69.50 RCW or legend drug as defined in chapter 69.41 RCW. The presence of a controlled substance or drug in any quantity measured by the testing instrument establishes the presence of that substance for the purpose of this section. The fact that a licensee or applicant is or has been entitled to use a drug under the laws of the state of Washington will not constitute a defense against a violation for being under the influence of or affected by intoxicating liquor and/or any drug.

[Statutory Authority: RCW 67.16.020. WSR 13-07-044, § 260-34-020, filed 3/15/13, effective 4/15/13; WSR 11-07-030, § 260-34-020, filed 3/10/11, effective 4/10/11. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 09-03-009, § 260-34-020, filed 1/8/09, effective 2/8/09; WSR 07-07-008, § 260-34-020, filed 3/8/07, effective 4/8/07; WSR 06-07-064, § 260-34-020, filed 3/10/06, effective 4/10/06; WSR 05-07-066, § 260-34-020, filed 3/11/05, effective 4/11/05; WSR 89-13-006 (Order 89-02), § 260-34-020, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-020, filed 4/15/88.]

WAC 260-34-030 Testing. (1) A steward of the horse racing commission, a commission security investigator or the executive secretary, may require any licensee or applicant to provide breath, blood, oral fluids, and/or urine samples for the purpose of drug or alcohol analysis under any of the following circumstances:

(a) When a steward or commission security investigator finds that there is reasonable suspicion to believe that the applicant or licensee has used or is under the influence of alcohol and/or any drug.

(b) When an applicant or licensee has a documented history of an unexplained positive test which indicates illegal drug usage or has a documented history of violating chapter 69.41, 69.45 or 69.50 RCW, WAC 260-34-020 or similar drug-related violation within five years of conviction or release from a correctional institution for that violation. The term "correctional institution" shall include any prison, jail or similar institution in this state or elsewhere.

(c) When a steward or commission security investigator decides to test any licensee or applicant as a condition of any conditional or probationary license.

(d) When any person is riding a horse on the grounds of a licensed racing association.

(2) For licensees or applicants who are subject to a field screening urine, or oral fluid test under the provisions in this chapter, and whose test shows the presence of a controlled substance or alcohol, the field screening test results shall be confirmed by a laboratory acceptable to the commission.

(3) The result of a test conducted with a preliminary breath test (PBT) instrument, or oral swab, shall constitute evidence of a violation of these rules. The results of such a test may be considered for

purposes of determining whether the licensee or applicant has consumed alcohol, the level of alcohol concentration, and whether the licensee or applicant has violated a prohibition on the use or consumption of alcohol established in a conditional license.

[Statutory Authority: RCW 67.16.020. WSR 11-07-030, § 260-34-030, filed 3/10/11, effective 4/10/11. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 08-07-039, § 260-34-030, filed 3/13/08, effective 4/13/08. Statutory Authority: RCW 67.16.020. WSR 07-03-064, § 260-34-030, filed 1/16/07, effective 2/16/07. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 06-07-064, § 260-34-030, filed 3/10/06, effective 4/10/06; WSR 05-07-066, § 260-34-030, filed 3/11/05, effective 4/11/05. Statutory Authority: RCW 67.16.040. WSR 00-07-038, § 260-34-030, filed 3/6/00, effective 4/6/00. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 89-13-006 (Order 89-02), § 260-34-030, filed 6/9/89; WSR 88-09-033 (Order 88-02), § 260-34-030, filed 4/15/88.]