

Code of Virginia
Title 59.1. Trade and Commerce
Chapter 29. Horse Racing and Pari-Mutuel Wagering

§ 59.1-389. Consideration of application.

A. The Commission shall promptly consider any application for a permit and issue or deny such permit based on the information in the application and all other information before it, including any investigation it deems appropriate. If an application for a permit is approved, the Commission shall issue a permit, which shall contain such information as the Commission deems appropriate. Such permit shall be valid for one year; however, the permit of a licensee's employee shall expire automatically when such permit holder leaves the employment of the licensee or at the end of one year, whichever occurs first. The licensee shall promptly notify the Commission when a permit holder leaves the employment of the licensee. The Commission shall establish criteria and procedures for permit renewal.

B. The Commission shall deny the application and refuse to issue the permit, which denial shall be final unless an appeal is taken under § 59.1-373, if it finds that the issuance of such permit to such applicant would not be in the interests of the people of the Commonwealth, or the horse racing industry of the Commonwealth, or would reflect on the honesty and integrity of the horse racing industry in the Commonwealth, or that the applicant:

1. Has knowingly made a false statement of a material fact in the application, or has deliberately failed to disclose any information requested by the Commission;
2. Is or has been found guilty of any corrupt or fraudulent practice or conduct in connection with horse racing in this or any other state;
3. Has knowingly failed to comply with the provisions of this chapter or the regulations of the Commission;
4. Has had a permit to engage in activity related to horse racing denied for just cause, suspended or revoked in any other state, and such denial, suspension or revocation is still in effect; or
5. Is unqualified to perform the duties required for the permit sought.

C. The Commission shall deny the application and refuse to issue the permit if, within the five years immediately preceding the date of his application for the permit sought, the applicant has been convicted of a crime involving the unlawful conduct of wagering, fraudulent use of a credential, unlawful transmission of information, touting, bribery, or administration or possession of drugs or any felony considered by the Commission to be detrimental to horse racing in the Commonwealth; the denial shall be final unless an appeal is taken under § 59.1-373. Additionally, the Commission may deny the application and refuse to issue any permit, if the applicant has been convicted of any such crime committed prior to the five years immediately preceding the date of his application.

D. The Commission may refuse to issue the permit if for any reason it feels the granting of such permit is not consistent with the provisions of this chapter or its responsibilities hereunder.

1988, c. 855; 1991, c. 591; 1998, c. 619; 1999, c. 356.

Virginia Administrative Code
Title 11. Gaming
Agency 10. Virginia Racing Commission
Chapter 60. Participants

11VAC10-60-10. Generally.

No person shall participate in any horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting or pari-mutuel wagering of the race meeting unless the person possesses a permit from the commission and complies with the provisions of the Act and the regulations of the commission. Permits issued by the commission are not transferable.

A. Application for permit. A person desiring to obtain a permit to participate in horse racing with pari-mutuel wagering shall make an application for a permit on a form prescribed by the commission. The application shall be accompanied by a fee prescribed by the commission and the cost of fingerprinting. The applicant shall be photographed. The application shall be verified by the oath or affirmation of the applicant.

B. Fee schedule. Before submitting an application for a permit as a participant, the applicant shall consult the fee schedule ([11VAC10-60-15](#)) of the Virginia Racing Commission to ascertain the applicable fee, make out a check or money order payable to the Virginia Racing Commission or pay in cash or with a credit card the full amount of the fee, and submit the fee with the application.

C. Reciprocity. The commission shall conduct a review of the statutes of other jurisdictions pertaining to horse racing with pari-mutuel wagering to ascertain which jurisdictions have substantially the same standards as those of Virginia. Upon submission of an application and payment of the prescribed fee by a holder of a permit, license or other similar document from those jurisdictions whose standards for permits, licenses or similar documents are substantially the same, the commission may, in its discretion, grant reciprocity to the applicant provided that the applicant has not been convicted of a misdemeanor or felony.

D. Fingerprinting. The applicant shall be fingerprinted upon making his initial application in the Commonwealth. The commission may waive this requirement in connection with an application for a permit by reciprocity with another jurisdiction provided that the applicant was fingerprinted and was subjected to a criminal history record information check in a jurisdiction whose laws governing fingerprinting and background investigations are substantially the same as required by Virginia and that he has not been convicted of a misdemeanor or a felony. However, the commission, in its discretion, may require fingerprints from any applicant or holder of a permit at any time.

E. Consideration of application. The commission, acting through its executive secretary or other designee, shall promptly consider any application for a permit and issue the permit based on the information contained in the application and all other information before it, including any investigation it deems appropriate. If an application for a permit is approved, the commission shall issue the permit.

F. Denial of application. If from the face of the application, an applicant appears ineligible because of the requirements specified in § [59.1-389](#) B of the Code of Virginia, his application shall be denied by the commission, acting through its executive secretary or other designee. The commission may deny an application for a permit for the reason specified in § [59.1-389](#) C of the Code of Virginia. Absent mitigating circumstances, the application for a permit shall be denied if the applicant has three or more misdemeanor convictions, regardless of offense, within five years preceding the application date. If the applicant has multiple convictions of the same offense on the same day, it shall not constitute three or more misdemeanor convictions for purposes of this regulation. The applicant may withdraw his application prior to denial.

G. Ineligible applicant. If it appears that the applicant may be ineligible because he has committed a felony or misdemeanor that may be detrimental to horse racing in the Commonwealth, he shall be afforded the opportunity to

withdraw his application or request a hearing before a steward regarding his application. However, the commission, in its discretion, may issue a permit to an applicant providing the felony or misdemeanor is not one of those listed in § [59.1-389](#) C of the Code of Virginia.

H. Felonies considered detrimental. In the absence of mitigating circumstances, the following felonies are considered detrimental to horse racing in Virginia and the commission, acting through its executive secretary or other designee, shall deny the application and refuse to issue the permit if the applicant has been convicted of any of them:

1. For horsemen participants:

a. Serious violent offenses, including murder, rape, forcible sodomy, crimes against nature, and aggravated assault or maiming;

b. Burglary offenses; and

c. Arson offenses.

2. For employees of a licensee:

a. Larceny or theft offenses, including robbery, embezzlement, and credit card theft;

b. Fraud offenses, including forgery, uttering, and credit card fraud;

c. Arson offenses; and

d. Serious violent offenses, including murder, rape, forcible sodomy, crimes against nature, and aggravated assault or maiming.

I. Renewal of permit. A holder of a currently valid permit may renew the permit annually by making application for a renewal on a form prescribed by the commission. The application for a renewal of a permit shall be accompanied by a fee prescribed by the commission. The applicant may be photographed with each application for a renewal.

J. Knowledge of regulations. A holder of a permit shall be familiar with and knowledgeable of the regulations of the commission. Every holder of a permit is presumed to know the regulations.

K. Reporting violations. A holder of a permit shall report immediately to the commission every observed violation of these regulations as well as all violations of state and federal laws during the race meeting.

L. Multiple participation. A holder of a permit may participate in horse racing in more than one capacity, with the exception of those capacities specifically prohibited by these regulations. A holder of a permit shall submit, in writing on a form prescribed by the commission, a request for approval of his multiple participation in horse racing. The stewards shall deny a request for multiple participation where it would, in their discretion, pose a potential conflict of interest. Where approval is granted to a holder of a valid permit, all applicable fees shall be paid by the participant.

M. Employment of unauthorized participants. A holder of a permit shall not employ for participation within the enclosure any person who does not possess the appropriate permit issued by the commission or has not made application for the appropriate permit.

N. Financial responsibility. A holder of a permit who obtains food, shelter, medicine, transportation, veterinary services or other goods and services for himself or for others shall be responsible for paying for those goods and services. The stewards shall neither be obligated to collect debts nor intervene where there is a dispute over a debt, unless in receipt of a judgment from a duly constituted court in the Commonwealth.

O. Possession of permit. A holder of a permit shall have in his possession at all times his permit issued by the commission and shall be responsible for its safekeeping. The holder shall display his permit to gain entry to the

enclosure or upon the request of appropriate racing officials, commission personnel, or security personnel.

P. Duplicate permit. A holder of a permit shall report immediately to the stewards the loss of his permit and immediately make application for a duplicate. The stewards shall notify the appropriate security personnel of the loss of the permit.

Q. Misuse of permit. A holder of a permit shall not allow another person to use his permit for the purpose of obtaining any benefits or privileges pertaining to the permit.

R. Search and seizure. A holder of a permit shall consent upon application and for the duration of the permit to personal inspections (searches) of the holder, inspections (searches) of the holder's personal property, and inspections (searches) of the premises and property located within the enclosure of the racetrack related to his participation in a race meeting by persons authorized by the commission, and to seizure of such property as is determined by the commission's designee conducting the search to be in violation of Chapter 29 (§ [59.1-364](#) et seq.) of Title 59.1 of the Code of Virginia or this chapter. The following provisions shall apply to searches and seizures:

1. Any drug, stimulant, narcotic, controlled substance, drug paraphernalia, hypodermic needle, hypodermic syringe, battery or other electrical or mechanical appliance or any other device or substance which could be used to affect the speed or action of a horse, or any other device prohibited by this chapter that is in the possession of a holder of a permit may be seized.

2. Commission personnel have the right to enter into or upon buildings, stables, rooms (other than residences), private vehicles or other places within the enclosure, and may examine them, and inspect and examine personal property and effects of a holder of a permit for the purpose of determining that the items listed in subdivision 1 of this subsection are not in the possession of a permit holder unless authorized by Chapter 29 of Title 59.1 of the Code of Virginia or this chapter.

3. In addition, commission personnel shall visit, investigate, and have free access to the office, track, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of satisfying themselves that Chapter 29 of Title 59.1 of the Code of Virginia and this chapter are being strictly complied with.

4. Failure to submit to any inspection or search described in this subsection or to any production of documents or seizure of property resulting therefrom may subject a licensee or a holder of a permit to disciplinary action. In the event that such licensee or permit holder refuses to submit, the following procedure shall apply:

Such refusal shall be immediately reported to the stewards by the person attempting to conduct the search. Such refusal, and the basis therefor, shall be provided in writing to the stewards by the permit holder and shall state the date, time and circumstances of the attempted search and his reasons for refusing to submit to it. Upon receipt of such report, the stewards may take appropriate disciplinary action, which may include the revocation or suspension of the permit or referral to the appropriate law-enforcement authorities, but neither the search nor any seizure of the property shall proceed.

5. The foregoing shall not preclude commission personnel from conducting searches and seizures when they have reasonable suspicion that a permit holder is in the act of violating a regulation or evidence of a violation of a regulation may be destroyed, in which event the provisions of these regulations dealing with consent, refusal to consent, scope of search, and disciplinary action shall apply.

S. Workers' compensation. An applicant for a permit who is subject to the compensation provisions of the Virginia Workers' Compensation Act (§ [65.2-100](#) et seq. of the Code of Virginia) shall comply with the provisions of the Virginia Workers' Compensation Act regarding insurance and self-insurance and shall submit proof of his compliance with his application for a permit. Failure to remain in compliance with the insurance and self-insurance provisions of the Virginia Workers' Compensation Act throughout the duration of the permit shall constitute grounds for its revocation or suspension.

T. Supervision of employees. A holder of a permit who is an employer shall supervise his employees so that their participation in horse racing is in accordance with these regulations, and shall be held jointly responsible for the actions of his employees as they relate to racing matters.

U. Human drug testing. The use, possession, or transportation of any controlled substance or drug as those terms are defined in the Virginia Drug Control Act (§ [54.1-3400](#) et seq. of the Code of Virginia) is prohibited within the enclosure of the racetrack unless the controlled substance or drug was obtained pursuant to a valid prescription or order from a duly licensed physician who is acting in the course of his professional practice or is otherwise authorized by these regulations. It shall be the responsibility of the holder of a permit to provide proof that he is using, possessing, or transporting the controlled substance or drug pursuant to a valid prescription or order from a duly licensed physician or that such use, possession, or transportation is otherwise authorized by these regulations.

In addition, the following provisions shall apply to the use or possession of controlled substances or drugs:

1. Any apprentice jockey, assistant starter, assistant trainer, clerk of scales, driver of Standardbreds, driver of starting gate, exercise rider, farrier, groom, hotwalker, identifier, jockey, outrider, paddock judge, patrol judge, placing judge, pony rider, starter, steward, trainer, valet, veterinarian, or veterinarian's assistant at any horse racing facility licensed by the commission may be subjected by the commission or its designee to a urine test or other fluid test, including a blood test, for the purpose of detection of the presence of controlled substances, in the following manner:

a. At least once per week during the course of every unlimited race meeting, the executive secretary of the commission, or his designee, may direct that the testing as described in this subsection be conducted. The day of each such testing shall be selected by the executive secretary or his designee at random and shall not be announced to the persons affected until the day so selected shall have arrived; and

b. Each sample shall be provided in the presence of the licensee's physician or other representative appointed by the executive secretary or his designee and in sufficient quantity to provide a split sample whenever possible. Such samples shall be immediately sealed and tagged. Evidence of such sealing shall be indicated by the signature of the tested permit holder, but the portion of the form which is provided to the laboratory for analysis shall not identify the individual permit holder by name. Only laboratories approved by the commission may be used in obtaining analysis reports or urine or other specimens. The commission and the stewards shall receive reports directly from the laboratory. If the permit holder so requests in writing to the stewards within 48 hours of notice of a positive lab report on the test sample submitted, the second portion shall be sent for further testing to a drug testing laboratory designated and approved by the commission. All costs for the transportation and testing of the second sample portion shall be the financial responsibility of the requesting permit holder, and payment shall be due from the requesting permit holder within 30 days of receipt of notice of the costs. The licensee's physician or other representative appointed by the executive secretary or his designee shall have overall responsibility for the preservation, storage and safeguarding of the second sample portion.

2. The steward, acting with reasonable suspicion, may direct any holder of a permit, whether or not listed in the categories in this subsection, to submit a specimen of urine, or to submit to any other fluid test including a blood test for the detection of controlled substances or drugs, in which event the provisions of these regulations dealing with collection of samples, failure to provide a sample, positive sample tests, and disciplinary action shall apply.

3. The presence in a sample of metabolites of opioid, barbiturate, cannabis, cocaine, amphetamine, hallucinogen, phencyclidine-type drugs, volatile solvents or volatile nitrates, or other mood-altering or dependency-causing controlled substances or drugs will be considered a positive test. A positive test result shall be reported, in writing, to the executive secretary or his designee, who shall notify the permit holder involved in writing as quickly as possible.

4. In the event of a positive test, the following shall also apply:

a. For an initial positive test, a holder of a permit shall undergo a professional evaluation, at his own expense, by a physician approved by the stewards. If the evaluation indicates that the person's condition is nonaddictive and not detrimental to the best interests of horse racing, the person shall be allowed to participate in horse racing after

producing a negative test and agreeing to undergo random testing for a period of not greater than six months at the discretion of the stewards;

b. If the evaluation indicates the person's condition is addictive or detrimental to the best interests of horse racing, the person shall not be allowed to participate in horse racing until he can produce a negative test, has successfully completed a drug rehabilitation program acceptable to the commission, and agrees to undergo random testing for a period of not greater than six months at the discretion of the stewards; and

c. For a second positive test, a holder of a permit shall be suspended indefinitely by the stewards and may only apply for reinstatement after having successfully completed a drug rehabilitation program acceptable to the commission and agreeing to undergo random testing for a period of not greater than one year at the discretion of the stewards.

5. A holder of a permit whose sample is positive may be subject to disciplinary action including revocation or suspension of his permit.

V. Human alcohol testing. On any racing day, any holder of a permit may not have present within his system an amount of alcohol which would constitute being under the influence of alcohol, defined as .08% alcohol content or more, or being impaired, defined as between .079% and .04% alcohol content. In addition, the following provisions shall apply to the consumption of alcoholic beverages:

1. The commission hereby adopts breath testing as its approved method of testing for the presence of alcohol in humans and adopts the following procedure for such testing:

a. Any apprentice jockey, assistant starter, assistant trainer, clerk of scales, driver of Standardbreds, driver of a starting gate, exercise rider, farrier, groom, hotwalker, identifier, jockey, outrider, paddock judge, patrol judge, placing judge, pony rider, starter, steward, trainer, valet, veterinarian or veterinarian's assistant at any horse racing facility licensed by the commission may be required to take a breath alcohol test prior to his participation in horse racing;

b. Testing devices shall be selected by the commission from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the Federal Register from time to time by the National Highway Traffic Safety Administration (NHTSA), United States Department of Transportation;

c. Each device shall be properly maintained and shall be calibrated by the use of calibrating unit listed on the NHTSA Conforming Products List of Calibrating Units for Breath Alcohol Testers (as amended) with sufficient frequency to ensure the accuracy of the device (within plus or minus .01%), but not less frequently than provided in the manufacturer's instructions;

d. Tests shall be conducted by a trained and qualified operator. The operator shall have received training on the operational principles of the particular instrument employed and practical experience in the operation of the device and use of the breath alcohol calibrating unit; and

e. Tests shall be conducted in accordance with procedures specified by the manufacturer of the testing device consistent with sound technical judgment and shall include appropriate restrictions on ambient air temperature.

2. The steward, acting with reasonable suspicion, may direct any holder of a permit, whether or not listed in the categories in this subsection, to submit to a breath alcohol test, in which event the provisions of subdivision 4 of this subsection shall apply.

3. A holder of a permit listed in subdivision 1 a of this subsection who is impaired shall not participate in horse racing on that day, but for the first occurrence, shall not be subject to further disciplinary action; a second or subsequent occurrence shall subject such permit holder to disciplinary action.

4. A holder of a permit who is under the influence of alcohol or refuses to take a breath alcohol test at the direction of the stewards is subject to disciplinary action.

W. Reciprocity of rulings. Any holder of a permit whose permit or license to engage in any activity related to horse racing in any other jurisdiction has been denied, suspended, or revoked for just cause in that jurisdiction shall not be permitted to <https://law.lis.virginia.gov/admincode/title11/agency10/chapter60/section10/>

participate in horse racing with pari-mutuel wagering in the Commonwealth of Virginia if such denial, suspension, or revocation is still in effect.

X. Official address. All notices required by law and by regulations of the commission to be mailed by the commission to any holder of a permit shall be validly given when mailed to the latest address on file with the commission. Each holder of a permit shall maintain a record of his current mailing address with the commission. Any change of address by a holder of a permit shall be submitted in writing to the commission within 30 days of such change.

Y. Disorderly conduct. A holder of a permit shall not engage in disorderly conduct, which shall include using profane, abusive or insulting language, or assaulting or threatening to assault other participants, racing officials, commission employees or the public.

Z. Unwarranted objection. A holder of a permit may be subject to disciplinary action by the stewards if they determine that an objection or protest is unwarranted and without merit.

Statutory Authority

§ [59.1-369](#) of the Code of Virginia.

Historical Notes

Derived from VR662-03-02 § 1, eff. August 14, 1991; amended, [Volume 16, Issue 21](#), eff. August 4, 2000; [Volume 34, Issue 19](#), eff. June 14, 2018.

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