

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Drugs: Horse Racing
Horse Racing: Drugs
8 M.R.S.A. § 280

STATE OF MAINE

Inter-Departmental Memorandum Date March 7, 1977

To Thomas H. Webster, Exec. Sec.

Dept. Harness Racing Commission

From Phillip M. Kilmister, Assistant

Agriculture
Dept. Attorney General

Subject Authorization of Stimulants and/or Depressants

In your memorandum under date of February 18, 1977 you ask, in essence, the following question :

May the Harness Racing Commission adopt a rule or regulation authorizing the use of certain drugs (Phenylbutazone and Lasix) in view of the prohibitory language relating to drug usage as set forth in 8 M.R.S.A. § 280?

The answer to your question is in the negative.

The Legislature has prohibited the usage or administration of all drugs upon horses entered in harness races in the State of Maine over which the Harness Racing Commission has jurisdiction. The pertinent language of 8 M.R.S.A. § 280 entitled "Use of drugs or appliance," reads as follows:

"Any person who attempts to or does interfere with, tamper, injure, destroy, stimulate or depress by the use of narcotics, drugs, stimulants or appliances of any kind any horse used for the purpose of racing, whether such horse be the property of such person or another, or who causes or instigates, counsels or in any way aids or abets such interference, tampering, injury or destruction or any person who shall influence or have any understanding, arrangement or connivance with any person associated with or interested in any stable, horse, track or race in which any horse participates to prearrange the results of any such race shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 3 years, or by both. . . ." (emphasis supplied)


Consistent with the legislative direction enunciated in 8 M.R.S.A. § 280 the Commission, pursuant to its rule-making power as set forth in 8 M.R.S.A. § 268, has adopted comprehensive rules and regulations relating to the detection and testing of drugs and stimulants in horses. (Rule XXI of the Maine State Harness Racing Commission)

If the Commission were to adopt a rule or regulation which would allow for certain drug usage, such action would contravene rather than implement the prohibitory language of 8 M.R.S.A. § 280.

A cardinal principle of administrative law is that rules and regulations must implement, and not contradict, the statutory guidelines upon which they are founded, and the law is rather well summarized as follows:

"Administrative agencies must strictly adhere to the standards, policies, and limitations provided in the statutes vesting power in them. A rule or regulation to be valid may only implement the law, and regulations are valid only as subordinate rules and when found to be within the framework of the policy which the legislature has sufficiently defined." 2 Am. Jur. 2d (Administrative Law) § 300, p. 127

In summary, in order for the Commission to permit a limited usage of certain drugs, an amendment of the statutory language of 8 M.R.S.A. § 280 is necessary.



PHILLIP M. KILMISTER
Assistant Attorney General

PMK:jg