



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Horse Racing Commission

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 13-21-036 ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject) WAC 260-84-065 Licensees – Drug and alcohol penalties

Hearing location(s):
Auburn City Council Chambers
25 W. Main
Auburn, WA 98002

Date: February 14, 2014 Time: 9:30 a.m.

Submit written comments to:
Name: Douglas L Moore
Address: 6326 Martin Way Suite 209
Olympia, WA 98516-5578
e-mail doug.moore@whrc.state.wa.us
fax (360) 459-6461 by (date) February 11, 2014

Assistance for persons with disabilities: Contact
Patty Sorby by February 11, 2014
TTY (360) 459-6462 or () _____

Date of intended adoption: February 14, 2014
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Separates penalties for alcohol and prescription medication violations from illegal controlled substance penalties.

Reasons supporting proposal: Stakeholder requested and supported.

Statutory authority for adoption: RCW 67.16.020

Statute being implemented:

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

DATE
12/16/2013

NAME (type or print)
Douglas L Moore

SIGNATURE *Douglas L Moore*

TITLE
Executive Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 16, 2013
TIME: 9:32 AM

WSR 14-01-069

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Douglas L Moore	6326 Martin Way Suite 209 Olympia, WA 98516-5578	(360) 459-6462
Implementation.... Douglas L Moore	6326 Martin Way Suite 209 Olympia, WA 98516-5578	(360) 459-6462
Enforcement..... Douglas L Moore	6326 Martin Way Suite 209 Olympia, WA 98516-5578	(360) 459-6462

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared. Not applicable

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: Not applicable

WAC 260-84-065 Licensees—Drug and alcohol penalties. (1) Be under the influence of or affected by intoxicating liquor, marijuana, and/or prescription drugs, (~~or have within their body any illegal controlled substance~~) in violation of WAC 260-34-020 (1) and (5):

- (a) First offense - Warning to one-day suspension;
- (b) Second offense - Three-day suspension;
- (c) Third offense - Thirty-day suspension;
- (d) Subsequent offenses (within five years) - One-year suspension.

(2) Be under the influence of or affected by intoxicating liquor, marijuana, and/or prescription drugs, (~~or having within their body any illegal controlled substance,~~) while on horseback, in violation of WAC 260-34-020 (1) and (5):

- (a) First offense - Warning to one-day suspension;
- (b) Second offense - Three-day to thirty-day suspension;
- (c) Third offense - Thirty-day to one-year suspension;
- (d) Subsequent offenses (within five years) - Revocation.

(3) Be under the influence of or affected by, or have within their body any illegal controlled substance or unprescribed medication in violation of WAC 260-34-020(1):

- (a) First offense - Thirty-day suspension;
- (b) Second offense - One hundred eighty-day suspension;
- (c) Third offense - Three hundred sixty-five day suspension;
- (d) Subsequent offenses - Revocation.

(4) Engage in the illegal sale or distribution of alcohol in violation of WAC 260-34-020(2):

- (a) First offense - Five-day suspension;
- (b) Second offense - Thirty-day suspension;
- (c) Third offense - One-year suspension;
- (d) Subsequent offenses (within five years) - Revocation.

~~((4))~~ (5) Engaging in the illegal sale or distribution of a controlled substance, including marijuana, or possess an illegal controlled substance, including marijuana with intent to deliver in violation of WAC 260-34-020(3), revocation and immediate ejection from the grounds.

~~((5))~~ (6) Possess an illegal controlled substance, including marijuana if under the age of twenty-one, and excluding marijuana if twenty-one years or older in violation of WAC 260-34-020(4):

- (a) First offense - Thirty-day suspension;
- (b) Second offense - One-year suspension; and
- (c) Third offense - Revocation.

~~((6))~~ (7) Possession of marijuana over the age of twenty-one, WAC 260-34-020(5):

- (a) First offense - Warning to ~~((one-day))~~ three-day suspension;
- (b) Second offense - Three-day to thirty-day suspension;
- (c) Third offense - Thirty-day to one-year suspension;
- (d) Subsequent offenses (within five years) - Revocation.

~~((7))~~ (8) Possession of 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 in violation of WAC 260-34-020(6):

- (a) First offense - Three-day suspension;
- (b) Second offense - Three-day to thirty-day suspension;
- (c) Third offense - One-year suspension;
- (d) Subsequent offenses (within five years) - Revocation.

~~((8))~~ (9) Refusal to submit to blood, breath, oral fluids, and/or urine testing, in violation of WAC 260-34-020(7), immediate ejection ~~((from))~~ from the grounds and a one-year suspension ~~((to))~~.

Subsequent offenses - Revocation.

~~((9))~~ (10)(a) For violations of WAC 260-34-020 (1), (4), or (5), the board of stewards may stay a suspension if the licensee or applicant shows proof of participation in a drug rehabilitation or alcohol treatment program approved or certified by the department of social and health services. Individuals will only be allowed a stay of a suspension under this subsection once in a five-year period. If during the period of the stay a licensee or applicant violates the provisions of chapter 260-34 WAC, the violation for which the stay of suspension was entered will be considered as a prior violation for penalty purposes. Before being granted a stay of the suspension, the licensee or applicant must also agree to comply with the following conditions during the duration of the treatment program:

(i) Remain in compliance with the rehabilitation and/or treatment program.

(ii) Submit to random drug or alcohol testing at the discretion of the board of stewards or commission ~~((security))~~ investigators.

(iii) Have no violations of chapter 260-34 WAC.

Upon completion of the rehabilitation or treatment program, the licensee or applicant must provide documentation of completion to the board of stewards. Upon making a determination that the licensee or applicant successfully completed the rehabilitation or treatment program, the board of stewards may direct that the final disposition of the violation will be that the licensee or applicant completed a treatment program in lieu of suspension.

(b) If the board of stewards finds that the licensee or applicant failed to comply with the conditions required in (a)(iii) of this subsection, the board of stewards may impose the original suspension. If the failure to comply with the conditions of the stay is a violation of chapter 260-34 WAC, the board of stewards may also hold a ruling conference for that rule violation and impose such penalty as is provided for that violation.

~~((10))~~ (11) Any licensee or applicant who tests positive (presumptive or confirmatory) for the presence of an illegal controlled substance is prohibited from performing any duties for which a license is required until the licensee does not test positive (presumptive or confirmatory) for the presence of any illegal controlled substance.

~~((11))~~ (12) Any licensee or applicant who is affected by intoxicating liquor or who has an alcohol concentration of 0.08 percent or higher is prohibited from performing any duties for which a license is required until the licensee is not affected by intoxicating liquor and his/her alcohol concentration is below 0.08 percent.

~~((12))~~ (13) Any licensee or applicant who has an alcohol concentration of 0.02 percent or higher while on horseback is prohibited from being on horseback until his/her alcohol concentration is below 0.02 percent.

(14) Any licensee or applicant who tests positive (presumptive or confirmatory) for the presence of marijuana is prohibited from performing any duties for which a license is required until the licensee provides a negative test for the presence of marijuana.