

*** DRAFT - NOT YET FILED ***

3769-15-01

Racing secretary.

The racing secretary shall prepare the books or sheets of conditions for the races to be contested during the meeting and he/she and his/her assistants shall take entries for all races. The racing secretary shall assign preference for each entry and prepare the races for the drawing of post positions. Post positions shall be drawn through a computerized method or by lot approved by the Commission. ~~by lot by the judges.~~ The number drawn shall be the post position for the race.

3769-15-30

Declaration to start and drawing horses.

(Declaration and entry are used interchangeably as indicated).

- (A) Declaration also known as the entry box. The permit holder shall provide a locked box with an aperture through which declarations (entries) shall be deposited.
- (B) At all commercial tracks the entry (declaration) box shall be opened by the presiding judge or an official designated by the presiding judge, at the advertised time. No owner, trainer or authorized agent for a horse with a declaration shall be denied the privilege of being present. Under the supervision of the presiding judge, or an official designated by the presiding judge, all entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn. An original condition (not substitute races) on the condition sheet may not be altered and the race must be contested if at least eight horses, representing eight separate betting interests, are entered and meet the eligibility standards. If it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened at a specified time.
- (C) Drawing of post positions for the second heat in races of more than one dash at parimutuel meetings, may be conducted by the judges from the stand for succeeding dashes.
- (D) Declarations (entries) made by mail, or telephone that are actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final. Mail and telephone declarations (entries) must state the same information that is required by paragraphs (B)(3), (B)(4), (B)(5), (B)(6), and (B)(7) of rule 3769-15-19 of the Administrative Code. It shall be the responsibility of the racing secretary to see that such entries are signed by the person receiving the same.
- (E) When a track requires a horse to be entered at a stated time, failure to enter as required shall be considered a withdrawal from the event.
- (F) After declarations (entries) to start have been made, no horse shall be withdrawn from the race except by permission of the judges. A fine and/or suspension shall be imposed for withdrawing a horse without permission and the penalty shall apply to both the horse and the party who violated the regulation.
- (G) Such drawings shall be final unless there is conclusive evidence that a horse properly entered was omitted from the race through the error of a track or its agent or employee in which event the horse shall be added to the race but given the last post position, provided the error is discovered prior to either scratch time or the printing of the program; however, in the case of early closers of more than ten thousand

dollars and stake and futurity races, the race shall be redrawn. This shall not apply at commercial parimutuel meetings in overnight events.

(H) Drivers may be changed until the time prescribed by the judges, after which no driver may be changed without permission of the judges and for good cause.

(I) ~~For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that a race secretary must establish a preference system for races as not more than one conditioned race per day may be divided into not more than two divisions after preference has been applied and the divisions may be selected by the race secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.~~

3769-15-31

Also eligible list and preference.

- (A) Also eligibles. Not more than two horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. In the event one or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horse shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list can only be withdrawn for good cause by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the race secretary's office. All horses on the also eligible list and not moved in to race by the time prescribed by the judges shall be released.
- (B) Preference. Preference ~~shall be given for drawing into in~~ all overnight events shall be given in accordance with any preferences established by agreement between the permit holder and the horseman's association. If no such preferences are established, then preference shall be given according to a horse's last previous purse race within the past sixty days or its last successful qualifying race, whichever is more recent. ~~according to a horse's last previous purse race during the current year.~~ The "preference date" on a horse that ~~has~~ was drawn to race and had ~~been~~ then scratched from its last race is the date of the race from which ~~he~~ it was scratched.
- (1) When an overnight race is re-opened because it did not fill, all eligible horses declared in to that race prior to the re-opening shall receive preference over horses subsequently declared, irrespective of any other preference. ~~When a horse is racing for the first time in the current year, the date of the horse's first successful qualifying race shall be considered its last race date, and preference applied accordingly. when an overnight race has been re-opened because it did not fill, all eligible horses declared in to that race prior to the re-opening shall receive preference over horses subsequently declared, irrespective of the actual preference dates.~~
- If any races are divided into divisions after the preferences have been applied, the divisions for one race per day may be selected by the race secretary. For all other overnight races that are divided, the division must be drawn by lot unless the conditions provide for a division based on performance, earnings or gender.
- (2) This rule relating to preference is not applicable for any meeting at which an

agricultural fair is in progress. All horses ~~granted stalls and~~ eligible [to race](#) must be given the opportunity to compete at these meetings. This rule may be waived by an agricultural fair with permission of the ~~Ohio state racing~~ commission.

3769-16-03

Claims.

- (A) Any horse starting in a claiming race shall be subject to claim for its entered price. All claims must be made in writing on forms and in envelopes furnished by the permit holder. Both forms and envelopes must be filled out completely and must be sufficiently accurate to identify the claim or the claim will be void. ~~A photocopy of the claimant's owner's license or eligibility to claim license must be submitted with the claim.~~ Proof of licensing must be submitted with the claim.
- (B) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

3769-16-05

Time for depositing claim.

The permit holder shall provide a ~~locked-box~~ secured location in which claims shall be deposited in a sealed envelope. The judges shall have access to the location. ~~keys to the box.~~ Only the money required for a registration transfer shall accompany the claim. The claim shall be deposited in the ~~box~~ designated location no later than fifteen minutes before post time of the race in which the claim is made. Once a claim is deposited it may not be removed. Personnel receiving claim shall note the time and date when received. The judges shall certify its validity and direct delivery of the horse if the claiming price is on deposit.

3769-16-12

Claiming prices determined.

- (A) A claimed horse ~~must~~ ~~may~~ be entered in subsequent claiming ~~race~~ ~~raees~~ for ~~such a~~ claiming price not less than one class higher than the price at which the horse was claimed for, or wait a minimum of 15 days before re-entering at the same price. A claimed horse may be entered in a condition race at any time. ~~as the claimant of said horse may determine.~~
- (B) Any horse scratched from a claiming race must race for the same claiming price or less in its next start and its next start must be a claiming race or until thirty days ~~has~~ have passed.

3769-16-24

Starting.

(A) Starter's control. The starter shall have control of the horses from the formation of the parade until he gives the word "go."

(1) Scoring: After one or two preliminary warming-up scores, the starter shall notify the drivers to come to the starting gate. During or before the parade the drivers must be informed as to the number of scores permitted.

(2) The horses shall be brought to the starting gate as near one-quarter of a mile before the start as the track will permit.

(3) Speed of gate: Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained:

(a) For the first one-eighth mile, not less than eleven miles per hour.

(b) For the next one-sixteenth of a mile, not less than eighteen miles per hour.

(c) From that point to the starting point, the speed will be gradually increased to maximum speed.

(d) On mile tracks horses will be brought to the starting gate at the head of the stretch and the relative speeds mentioned in paragraphs (A)(3)(a), (A)(3)(b), and (A)(3)(c) above will be maintained.

(B) Starting point. The "starting point" will be a point marked on the inside ~~rail~~ of the track a distance of not less than two hundred feet from the first turn. The starter shall give the word "go" at the starting point.

When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

3769-16-27

Riding in gate, equipment, two tiers.

- (A) Riding in the gate: no persons shall be allowed to ride in the starting gate except the starter and his driver or operator and a patrol judge, unless permission has been granted by the commission.
- (B) Loudspeaker: use of mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.
- (C) Holding horses before start: horses may be held on the backstretch ~~not to exceed two minutes awaiting post time,~~ for a reasonable time except when delayed by an emergency.
- (D) Two tiers: in the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

Whenever a horse is drawn from any tier, horses on the outside move in to fill up the vacancy. Where a horse has drawn a post position in the second tier, the driver of such horse may elect to score out behind any horse in the first tier so long as he does not thereby interfere with another trailing horse or deprive another trailing horse of a drawn position.

Chapter 3769-15 Racing Eligibility

3769-15-01 Racing secretary.

The racing secretary shall prepare the books or sheets of conditions for the races to be contested during the meeting and he/she and his/her assistants shall take entries for all races. The racing secretary shall assign preference for each entry and prepare the races for the drawing of post positions. Post positions shall be drawn by lot by the judges. The number drawn shall be the post position for the race.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-15-02 Entry licensing requirements.

No horse may be permitted to race in this state unless the owner, trainer, and driver shall have been granted a current license by the commission or shall have made application for a license accompanied by the proper fee as prescribed in rule 3769-12-24 of the Administrative Code and which application shall not have been rejected. It shall be the duty of the racing secretary to enforce this rule.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/16/1970, 1/1/1985, 10/4/1992

3769-15-03 Entry void.

If a person is suspended, ruled off or expelled, he shall not be qualified, as agent or otherwise, to declare for a race, to enter or to run any horse for himself or anyone else, and no horse which he owns wholly or in part, or which is under his care, management, training or supervision shall be qualified to run in any race. Such entry if received shall be void, and if an entry fee accompanies it, the fee shall be refunded.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-15-04 Entry in name of all owners and proof of ownership.

(A) Every entry must be in the name of a person having an ownership interest in the horse and must be made in writing by such owner, his/her trainer or by the authorized agent of either. The authorized agent must be licensed at the time the entry is received by the race office. The full

Chapter 3769-16 Claiming; Starter Rules

3769-16-01 Winnings.

Winnings shall include all prizes up to the time appointed for the start and shall apply to all races in any country and shall embrace walking over or receiving forfeit but shall not include second money or lower or the value of any prize not paid in money.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-16-02 Winnings start on January first.

Winnings during the year shall include all winnings from January first, preceding the start.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-16-03 Claims.

(A) Any horse starting in a claiming race shall be subject to claim for its entered price. All claims must be made in writing on forms and in envelopes furnished by the permit holder. Both forms and envelopes must be filled out completely and must be sufficiently accurate to identify the claim or the claim will be void. ~~A photocopy of the claimant's owner's license or eligibility to claim license must be submitted with the claim.~~ *Proof of licensing must be submitted with the claim.*

(B) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 8/15/1977, 1/1/1985, 1/1/2006

3769-16-04 Persons eligible to claim.

(A) Any Ohio licensed owner or any person holding an eligibility to claim license may make a claim for any horse subject to claim. Claims may be made by an authorized agent but only for the account of the person for whom he is agent.

(B) An eligibility to claim license may be issued by the Ohio state racing commission subject to rules 3769-12-18, 3769-12-26 and 3769-12-30 of the Administrative Code, to any applicant who provides a completed fingerprint card, the name of a licensed trainer who will assume the responsibility for the care of the horse claimed, along with the requisite fee. An eligibility to claim

license is valid for thirty days from the date of purchase. Should a person successfully claim a horse within thirty days, such person shall purchase an owner's license prior to starting said horse. Should a person not successfully claim a horse within thirty days of purchase, the license shall be considered null and void, but such person may purchase additional eligibility to claim licenses until a successful claim has been made.

(C) Any person claiming a horse under this rule must also comply with rules 3769-16-10 and 3769-16-11 of the Administrative Code.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 1/1/1985, 5/1/1985, 1/1/1991, 1/1/2006

3769-16-05 Time for depositing claim.

The permit holder shall provide a ~~locked box~~ in which claims shall be deposited in a sealed envelope. The judges shall have ~~keys to the box~~. Only the money required for a registration transfer shall accompany the claim. The claim shall be deposited in the ~~box~~ no later than fifteen minutes before post time of the race in which the claim is made. Once a claim is deposited it may not be removed. Personnel receiving claim shall note the time and date when received. The judges shall certify its validity and direct delivery of the horse if the claiming price is on deposit.

secured location
access to the location
designated location

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 3/14/1968, 1/1/1985, 2/6/1999, 1/1/2006

3769-16-06 Information on claims restricted.

No official or other employee of a permit holder shall give any information as to the filing of claims until after the race has been run.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-16-07 Title vested.

Each horse shall race for the account of the person in whose name it starts, but title to the claimed horse shall be vested in the claimant from the time it becomes a starter as defined in rule 3769-11-28 of the Administrative Code or as provided for in rule 3769-16-19 of the Administrative Code. If more than one person shall enter claims for the same horse, they shall cast lots to determine the right to consummate the claim in the presence of the judges, and the one determined by lot shall become the owner of the horse. In any case, the claimant shall take the claimed horse whether it be alive or dead, sound or unsound, or injured during the race or after it.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03

Proposed change: 3769-16-12 Claiming prices determined.

(A) A claimed horse MUST be entered in its subsequent claiming race for a claiming price not less than ONE class higher than the price at which the horse was claimed for, or wait a minimum of 15 days before re-entering at the same price. A claimed horse may be entered in a condition race at any time.

(B) Any horse scratched from a claiming race must race for the same claiming price or less in its next start and its next start must be a claiming race or until thirty days has passed.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985, 6/1/1995, 2/6/1999, 7/1/2001, 1/1/2006

3769-16-12 Claiming prices determined.

(A) A claimed horse may be entered in subsequent claiming races for such claiming price as the claimant of said horse may determine.

(B) Any horse scratched from a claiming race must race for the same claiming price or less in its next start and its next start must be a claiming race or until thirty days has passed.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 10/1/1976, 1/1/1985

3769-16-13 Cannot claim own horse.

No person can claim his own horse or cause his horse to be claimed directly or indirectly for his own account; nor shall any person claim more than one horse from any one race. When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race. The judges shall penalize any violator of this rule.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-16-14 One claim per race.

No authorized agent or trainer although representing several owners shall submit more than one claim for any one race.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 3/15/1966, 1/1/1985

3769-16-15 Agreement prohibited.

Any person who shall offer or enter into an agreement to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race, or attempt by intimidation to prevent anyone from starting a horse in any race for which it is entered, or any owners starting horses in a claiming race who make an agreement for the protection of each other's horses may be penalized by the judges and/or the commission.

inside of the track

(B) Starting point. The "starting point" will be a point marked on the ~~inside rail~~ a distance of not less than two hundred feet from the first turn. The starter shall give the word "go" at the starting point.

When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 1/1/1985, 12/1/1986

3769-16-25 Recall rules.

In case of a recall, a light plainly visible to the drivers shall be flashed and a recall sounded, but the starting gate shall proceed out of the path of the horses. At commercial parimutuel tracks, in the case of a recall, wherever possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. In an emergency, however, the starter shall use his discretion to close the wings of the gate.

(A) There shall be no recall after the word "go" has been given unless there is a mechanical failure of the starting gate. Any horse, regardless of his position or an accident, shall be deemed a starter from the time he entered into the starter's control unless dismissed by the starter.

(B) Breaking horses. The starter shall endeavor to get all horses away in position and on gait but there shall be no recall for a breaking horse.

(C) The starter may sound a recall only for the following reasons:

- (1) A horse scores ahead of the gate;
- (2) There is interference;
- (3) A horse has broken equipment;
- (4) A horse falls before the word "go" is given;
- (5) A mechanical failure of the starting gate;
- (6) A horse comes to the gate out of position.

(D) In the event a horse causes two recalls, it shall be an automatic ruling of the judges that the offending horse be scratched and a mutuel refund ordered.

(E) Horses not up to the gate in position due to the fault of the driver may result in the driver being penalized by the starter as provided by rule 3769-16-26 of the Administrative Code.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03

Rule
Prior Effective Dates: 1/1/1985, 4/3/1986, 10/6/1989, 11/1/1996

Amplifies: 3769.03

3769-16-26 Penalties, starter.

(A) A fine not to exceed two hundred fifty dollars or suspension from driving not to exceed ten days, or both, may be applied to any driver by the starter for:

- (1) Delaying the start;
- (2) Failure to obey the starter's instructions;
- (3) Rushing ahead of the inside or outside wing of the gate;
- (4) Coming to the starting gate out of position;
- (5) Crossing over before reaching the starting point;
- (6) Interference with another driver during the start;
- (7) Failure to come up into position.

(B) The judges may impose a more extended penalty, if in their judgement such be warranted.

R.C. 119.032 review dates: 09/15/2010 and 09/15/2015
Promulgated Under: 119.03
Statutory Authority: 3769.03
Rule Amplifies: 3769.03
Prior Effective Dates: 1/1/1985

3769-16-27 Riding in gate, equipment, two tiers.

(A) Riding in the gate: no persons shall be allowed to ride in the starting gate except the starter and his driver or operator and a patrol judge, unless permission has been granted by the commission.

(B) Loudspeaker: use of mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.

(C) Holding horses before start: horses may be held on the backstretch ~~not to exceed two minutes~~ *for a reasonable time* awaiting post time, except when delayed by an emergency.

(D) Two tiers: in the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

Whenever a horse is drawn from any tier, horses on the outside move in to fill up the vacancy. Where a horse has drawn a post position in the second tier, the driver of such horse may elect to score out behind any horse in the first tier so long as he does not thereby interfere with another trailing horse or deprive another trailing horse of a drawn position.



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VIA E-MAIL ONLY

May 9, 2017

Re.: 3769-15-01 Draft Revision Comments and 3769-15 No Change Rules

3769-15-30 and 3769-13-31 submitted as “no change” rules and 3769-15-01 submitted as a complete new rule need to be amended to remove inconsistencies and comport with four Final Horsemen’s Agreements that were drafted to resolve these inconsistencies and finalized from January 2014 to October 2015. If the rules are not amended the statewide ten-year Horsemen’s Agreement provisions will be permanently invalidated.

The inconsistencies are with the system of “Preferences”. Preference determines what horses entered on a given day will end up being able to race before others get in. Absent agreement, “Date” has historically been used for this “sorting” process. In the sorting process if Horse Z last raced January 5th and Horse Q last raced January 8th if sorted by date, Horse Z has “Preference” (an earlier date) and will get in to race over Horse Q.

However modernly a system that shows “Preference” to in-state participants has been adopted in neighboring jurisdictions like Indiana, Pennsylvania, and Michigan. For example, an Ohio Sired Horse or an Ohio Horse Trainer is excluded from being able to enter horses and race in Pennsylvania because their “Preference” system restricts racing to Pennsylvania based residents and Pennsylvania Sired Horses versus sorting strictly by Date. In the example above if Horse Z was Pennsylvania Sired and Horse Q was Ohio Sired a Race Secretary in Pennsylvania will take Horse Z to race and exclude Horse Q, date only comes into play when breaking ties after these state-specific Preferences. As applied Ohio participants are restricted and more often prohibited altogether from racing in neighboring jurisdictions and left with no ability to receive Preference in their State of residence. This places Ohio based racing business at a severe disadvantage in the marketplace.

In 3769-15 there are several places inconsistencies occur, three follow.

3769-15-30 The racing secretary shall prepare the books or sheets of conditions for the races to be contested during the meeting and he/she and his/her assistants shall take entries for all races. The racing secretary shall assign preference for each entry and prepare the races for the drawing of post positions. Post positions shall be drawn by lot by the judges. The number drawn shall be the post position for the race.

3769-15-30 (I) For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that a race secretary must establish a preference system for races as not more than one conditioned race per day may be divided into not more than two divisions after preference has been applied and the divisions may be selected by the race secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.

3769-15-31 (B) Preference. Preference shall be given in all overnight events according to a horse's last previous purse race during the current year. The "preference date" on a horse that has drawn to race and had been scratched is the date of the race from which he was scratched.

The OHHA contends that 3769-15-31 does not set forth the use of date as a preference system, as shown above, in fact, 3769-15-30(I) says, "a race secretary must establish a preference system for races". Further, if date is a mandate there is no clear definition for date as a preference (other than with scratched horses), nor is there a clear directive on how many times date is applied when sorting a race to break ties.

With the administrative code based inconsistencies, neighboring state exclusions, and seeking one consistent system of "Preferences" that would be applied by Standardbred Race Offices Statewide, the OHHA developed, negotiated, and agreed-to a system of "Preferences" to be applied by Race Offices in Final Horsemen's Agreements put into place from January 2014 to October 2015.¹ Preferences were clearly defined and they were to be applied prior to applying date to break ties. All Final Horsemen's Agreements were provided to the Ohio State Racing Commission after execution. Disruption of this system of "Preferences" put into place by those Horsemen's Agreements has already had an adverse business impact on the Ohio based, resident trainers and owners.

The initial adverse business impact resulted after the OSRC issued a Directive in October 2015 (attached), which stated that reading 3769-15-30 and 3769-15-31 together the only system of "Preference" that could be applied was "Date", as defined in 3769-15-31(B). That Directive had an immediate adverse business impact on Ohio based owners and trainers by immediately invalidating the "Preferences" provisions that were negotiated and agreed-to by the OHHA and the four Permit Holders in accordance with the mandate in 3769-15-30(I) that, "a race secretary must establish a preference system for races".

The immediate business impact enabled out-of-state interests to come into Ohio and usurp racing opportunities from Ohio Sired Horses and Ohio resident Owners and Trainers, who were not given "Preference".

Following that Directive, which effectively invalidated the private Agreements on Preference, the OHHA has continued to appeal to the OSRC to have the statutory administrative provisions noted above amended to comport with the Final Horsemen's Agreements. Adoption of the changes included herein would comport with the industry-wide, specific agreed to system of Preferences, and align with the negotiated and final 10-year Horsemen's Agreements.

Our requested Amendments are provided below for 3769-15-01, 3769-15-30, and 3769-15-31. Let us know if you have further questions or comments.

Sincerely,


Renée Mancino

¹ Miami Valley Horsemen's Agreement Preference Provision: Protection of Horsemen in the Entering of Races. Except for stake races, throughout the term of this Agreement, if more horses are entered in a race than can be accommodated, preferences in drawing horses into the race shall be given in accordance with the system of preferences adopted by the OHHA, as such system may be revised from time to time. As of the Effective Date those preferences are as follows: first, to horses sired by stallions that were registered for breeding in Ohio at the time of conception of such race horses; second, to horses that are trained by Ohio-resident trainers who have supported Ohio racing during the preceding two calendar years (with such residency established by the holding of an Ohio driver's license); and third, to horses that are owned exclusively by residents of Ohio. Permit Holder agrees to obtain the advice of the OHHA regarding the implementation of these preferences and the OHHA agrees to promptly notify Permit Holder if the preferences are changed at any time.

Executive Director

cc.: Kevin Greenfield, President, OHHA
Steve Bateson, Vice-President, OHHA
Steve McCoy, Immediate Past President

3769-15-01

The racing secretary shall prepare the books or sheets of conditions for the races to be contested during the meeting and he/she and his/her assistants shall take entries for all races. Pursuant to 3769-15-31 ~~the~~ racing secretary shall assign preference for each entry and prepare the races for the drawing of post positions. Post positions shall be drawn through a computerized method approved by the permit holders. The number drawn shall be the post position for the race.

~~**3769-15-30(I).** For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that a race secretary must establish a preference system for races as not more than one conditioned race per day may be divided into not more than two divisions after preference has been applied and the divisions may be selected by the race secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex. [Deleted.]~~

3769-15-31

(A) [Unchanged]

(B). Preference. Preference ~~shall be given in~~ for drawing into all overnight events shall be given in accordance with any preferences established by agreement between the permit holder and the Ohio Harness Horsemen's Association. If no such preferences are established, then preference shall be given according to a horse's last previous purse race within the past sixty days or its last successful qualifying race, whichever is more recent. The "preference date" on a horse that ~~has~~ was drawn to race and had ~~been~~ then scratched from its last race is the date of the race from which ~~he~~ it was scratched.

(1) When an overnight race is re-opened because it did not fill, all eligible horses declared in to that race prior to the re-opening shall receive preference over horses subsequently declared, irrespective of any other preference.

(2) If any races are divided into divisions after the preferences have been applied, the divisions for one race per day may be selected by the race secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.

(3) This rule relating to preferences is not applicable for any meeting at which an agricultural fair is in progress. All horses ~~granted stalls and~~ eligible to race must be given the opportunity to compete at these meetings. This rule may be waived by an agricultural fair with the permission of the Ohio State Racing Commission.