



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio State Racing Commission

Rule Contact Name and Contact Information: Tanya.Boulmetis@Racing.Ohio.gov
Office #614-779-0270

Regulation/Package Title (a general description of the rules' substantive content):

No-change 5-year rule review.

Rule Number(s): 3769-4-01 – 3769-4-15; 3769-8-02 – 3769-8-12; 3769-8-99; 3769-17-9.1; 3769-18-02 – 3769-18-12; 3769-18-99

Date of Submission for CSI Review: December 4, 2023

Public Comment Period End Date: December 14, 2023

Rule Type/Number of Rules:

New/___ rules

No Change/ 36 rules (FYR? Y)

Amended/___ rules (FYR? Y)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

3769-4-01 Certain permit holder employees must be licensed. The permit holder employee, who is licensed, must wear a name tag. There are reporting requirements to the stewards.

3769-4-02 All agreements of any kind between a permit holder and horsemen shall be submitted to the commission ten days prior to the opening of a horse racing meeting.

3769-4-03 The permit holder must give money from purses to the horsemen unless the commission gives a written order.

3769-4-04 No thoroughbred race shall be scheduled or conducted for less than two thousand dollars purse.

3769-4-05 This regulation discusses condition books which set the conditions for races conducted by the permit holder.

3769-4-06 There are certain licensed individuals who cannot have a horse entered into a race.

3769-4-07 There are age restrictions to be in certain permit holders' areas. You must be eighteen to place a wager.

3769-4-08 There are restrictions on where the permit holder can accept wagers. No unlawful gambling devices are allowed on the permit holders' premises.

3769-4-09 Bookmaking is not allowed on permit holders premises.

3769-4-10 This regulation prohibits touting which is providing information on a horse for a fee.

3769-4-11 The permit holder must maintain its premises in good condition.

3769-4-12 The permit holder must provide stable area security.

3769-4-13 The permit holder must furnish and maintain an ambulance. The proposed change would prohibit horses with jockeys being on the track until the ambulance returns.

3769-4-14 Every permit holder shall install and maintain at their track floodlights to provide adequate illumination of the stable areas at night.

3769-4-15 The permit holders' requirement to have refuse pits for manure and other refuse.

3769-8-02 The Trainer is the absolute insurer and responsible for their horses.

3769-8-03 States the trainer or a representative of the trainer is to be in the test barn and witness the test sample being taken.

3769-8-04 States a 'nerved' horse must be disclosed on its registration papers and the stewards.

3769-8-06 A licensee who is found with controlled substances or narcotics while on the premises of a permit holder will be fined and/or suspended by the stewards.

3769-8-07 This rule states what some of the prohibited possessions are.

3769-8-09 This states the commission can regulate a licensee who can affect the outcome of a race, or people who work directly with horses, or people who operate mechanical devices which could cause harm.

3769-8-10 It is the trainer and/or veterinarian's responsibility to report the death of a horse.

3769-8-11 The commission can order and pay for the necropsy of a horse.

3769-8-12 Allows a licensee to obtain a second test of a retained sample from an independent laboratory in the event of a positive test.

3769-8-99 This states what the ability of the stewards and commission may do when penalizing a licensee for a rule violation.

3769-17-9.1 This requires safety reins when a person is on a sulky or jog cart on the grounds of a permit holder.

3769-18-02 The Trainer is the absolute insurer and responsible for their horses.

3769-18-03 States the trainer or a representative of the trainer is to be in the test barn and witness the test sample being taken.

3769-18-04 States a 'nerved' horse must be disclosed on its registration papers and the stewards.

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3769-18-99 This states what the ability of the stewards and commission may do when penalizing a licensee for a rule violation.

3. Please list the Ohio statute(s) that authorize the agency, board, or commission to adopt the rule(s) and the statute(s) that amplify that authority.

a. 3769.03

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
 - a. No, it is not part of any federal program.
5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**
 - a. N/A
6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**
 - a. To protect the public. There is a need to define different possible wagers and to define the procedure to payout for these wagers and to inform the betting public and the permit holders the procedure if certain situations occur.
7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**
 - a. These rules have been in place for some time and the Commission believes the success of these rules has been demonstrated.
8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
 - a. The primary stakeholders are the seven commercial permit holders and members of the horsemen's associations who are required to implement and/or follow these rules.
10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**
 - a. These 5-year rule review rules were provided to the industry for comments. The Commission does not believe that these rules need to be changed.
11. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**
 - a. No additional scientific data was used to develop these rules.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

- a. No alternative regulations were considered as these rules have been in existence for several years.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

- a. No other agency regulates horse racing in Ohio; therefore no duplication will occur.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

- a. The Commission has employees at all commercial tracks to ensure compliance with these rules.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. **Identify the scope of the impacted business community,**
 - i. The scope of the impacted business community includes the seven-commercial permit holders in Ohio and the licensees associated with horse racing; **and**
- b. **Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.)**

3769-4-01 The permit holder or a trainer could be fined or suspended for not following this rule.

3769-4-02 The permit holder could be fined or suspended for not following this rule.

3769-4-03 The permit holder could be fined or suspended for not following this rule.

3769-4-04 The permit holder could be fined or suspended for not following this rule..

3769-4-05 The permit holder could be fined or suspended for not following this rule.

3769-4-06 Certain licensees cannot have horses in the races. Certain licensees could be fined or suspended for not following this rule.

3769-4-07 The permit holder could be fined or suspended for not following this rule.

3769-4-08 The permit holder could be fined or suspended for not following this rule..

3769-4-09 The permit holder could be fined or suspended for not following this rule.

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3769-4-12 The permit holder could be fined or suspended for not following this rule.

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3769-4-14 Every permit holder shall install and maintain at their track floodlights to provide adequate illumination of the stable areas at night.
3769-4-15 The permit holder could be fined or suspended for not following this rule.
3769-8-02 The trainer could be fined or suspended.
3769-8-03 The trainer or their representative could be fined or suspended.
3769-8-04 States a 'nerved' horse must be disclosed on its registration papers and the stewards.
3769-8-06 A licensee could be fined and/or suspended by the stewards.
3769-8-07 A licensee could be fined or suspended by the stewards..
3769-8-09 A licensee could be fined or suspended by the stewards.
3769-8-10 There is a form to complete.
3769-8-11 No adverse impact.
3769-8-12 The licensee has to pay for the independent test. If the results come back negative for the substance tested for, the commission reimburses the licensee the cost of the test.
3769-8-99 A licensee could be fined or suspended by the stewards.
3769-17-9.1 A licensee could be fined or suspended by the judges.
3769-18-02 The trainer could be fined or suspended.
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3769-18-06 A licensee could be fined and/or suspended by the stewards.
3769-18-07 A licensee could be fined and/or suspended by the stewards.
3769-18-09 A licensee and/or permit holder could be fined and/or suspended by the stewards.
3769-18-10 A licensee could be fined and/or suspended by the stewards.
3769-18-11 No adverse impact.
3769-18-12 The licensee has to pay for the independent test. If the results come back negative for the substance tested for, the commission reimburses the licensee the cost of the test.
3769-18-99 A licensee could be fined or suspended by the stewards.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify.

No

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

3769-4-01 The adverse impact is justified to ensure that all race participants race are under the same integrity umbrella.
3769-4-02 The adverse impact is justified to ensure these agreements comply with the rules of racing.
3769-4-03 The adverse impact is justified to ensure the horsemen receive the funds from racing.
3769-4-04 The adverse impact is justified to ensure the integrity of racing.

3769-4-05 The condition book informs the horsemen of the conditions to enter a race. The horsemen need to know the conditions before they can enter a horse into a race.

3769-4-06 The adverse impact is justified to ensure the integrity of racing.

3769-4-07 Minors should not be able to place a bet.

3769-4-08 The permit holder should not be involved in illegal gambling. The adverse impact is justified to ensure the integrity of racing.

3769-4-09 The adverse impact is justified to ensure the integrity of racing.

3769-4-10 The adverse impact is justified to ensure the integrity of racing.

3769-4-11 The public should enjoy racing in a clean environment.

3769-4-12 The adverse impact is justified to ensure the integrity of racing.

3769-4-14 The stable area needs to be safe.

3769-4-15 There must be an area to place refuse. The permit holders' premises need to be sanitary.

3769-8-02 This rule is justified to protect the integrity of horseracing, guard the health, safety and welfare of the horse, and safeguard the interest of the public and racing participants by holding the trainer accountable.

3769-8-03 This rule is justified to protect the integrity of horseracing, guard the health, safety and welfare of the horse, and safeguard the interest of the public and racing participants by ensuring test sample are taken from horses that participated in a race.

3769-8-04 This rule is justified to protect the integrity of horseracing, guard the health, safety and welfare of the horse, and safeguard the interest of the public and racing participants by having a 'nerved' horse disclosed on its registration papers and the stewards.

3769-8-06 The adverse impact is justified because it could create a dangerous situation if licensees are allowed to be on narcotics or controlled substances while working

3769-8-07 The adverse impact is justified because this ensures participants are neither using nor administering illegal substances to their horses. This rule creates a level playing field and maintains confidence in the racing product by the public.

3769-8-09 This rule is justified to protect the integrity of horseracing, guard the health, safety and welfare of the horse, and safeguard the interest of the public and racing participants.

3769-8-10 To ensure the health, safety and welfare of horses and participants, the commission needs to be aware when a horse dies on a permit holders property.

3769-8-11 No adverse impact.

3769-8-12 This is justified for due process because if an independent laboratory submits a negative report, there is no penalty to a trainer for a positive test.

3769-8-99 This rule is justified to protect the integrity of horseracing, guard the health, safety and welfare of the horse, and safeguard the interest of the public and racing participants.

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Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

- a. No, this regulation applies to only seven commercial racetrack permit holders; therefore, an exemption for small businesses is not applicable.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

- a. R.C. 119.14 is not applicable.

20. What resources are available to assist small businesses with compliance of the regulation?

- a. The Commission website is www.racingohio.net
- b. The Commission phone number is 614-466-2757
- c. The Commission facsimile number is 614-466-1900
- d. Contact Deputy Director: Tanya.Boulmetis@racing.ohio.gov

3769-4-01

Permit holders, stable list.

- (A) No permit holder shall use any unlicensed person in any position in which a commission license is required; provided, however, that a representative of the commission may give temporary approval to the use of any person who has applied for a license.
- (B) The commission shall issue licenses, also known as badges, to all licensees to be worn in an easily visible place and the color background shall dictate the areas to which the licensee may have access. The license and badge of the licensed person having access to such area must include a color photograph of that person to whom such license and badge is issued. The color photograph shall be an integral part of the license and badge itself. The commercial permit holder shall be responsible for any unlicensed person in the stable area or for any licensed person being in an area to which he or she is not entitled to have access. Any unlicensed person, given access to the stable area by the permit holder, is to be issued a temporary pass good for no more than one date, which pass shall be worn on that person where it is easily visible and that person shall be accompanied at all times by a licensed person who shall be responsible for that unlicensed person.
- (C) Any trainer who trains horses for owners other than himself must submit a list of the names and addresses of such owners, to the stewards along with his own and the horses owned by each. Any trainer who engages grooms or other employees must submit a list of their names and addresses to the stewards. No trainer shall list any owner other than one for whom he has horses in his stable, nor for grooms or other employees other than those actively engaged and on his payroll. Any change of owners or grooms or other employees must be reported to the stewards immediately.
- (D) Any person and a permit holder found in violation of this rule shall be subject to the penalties set forth in rule 3769-4-99 of the Administrative Code.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	02/12/1973, 01/01/1985

3769-4-02

Must file agreements.

All agreements of any kind between a permit holder and horsemen shall be submitted to the commission ten days prior to the opening of a horse racing meeting.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

*** DRAFT - NOT YET FILED ***

3769-4-03

Written order required.

No permit holder shall pay any portion of purses or other earnings, due to any horseman, to anyone else except upon written order of said horseman.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

*** DRAFT - NOT YET FILED ***

3769-4-04

Thoroughbred minimum.

No race at any thoroughbred meeting shall be scheduled or conducted for a purse of less than two thousand dollars.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

3769-4-05

Condition books.

- (A) Not less than thirty days before the first racing day of its meeting, or not more than fifteen days subsequent to the granting of dates for its meeting, whichever shall be later, every permit holder shall submit to the commission a copy of its first condition book for the commission's consideration and approval. Such first condition book shall set forth the conditions of all races proposed to be conducted by such permit holder during not less than the first six days of its meeting, or during the entire meeting in cases in which its meeting may consist of less than six days. Upon approval of the first condition book of such permit holder, the values of purses, stakes and handicaps therein listed may not be lowered by such permit holder without the consent of the commission. A copy of every succeeding condition book covering races to be conducted during subsequent days of a meeting for which a first condition book shall have been approved by the commission shall be submitted to the commission by such permit holder at least five days before the date specified therein and the purse offered for no race described therein shall be less than the lowest purse specified in such approved first condition book with respect to any race. In the event any proposed race shall be cancelled, the purse offered with respect to any substitute race shall not, unless approved by a member of the commission, be less than the lowest purse specified in such approved first condition book with respect to any race.
- (B) Copies of the first condition book shall be made available to all horsemen attending the meeting at least five days before the start of the meeting. Copies of each succeeding condition book shall be made available to such horsemen at least five days before the date specified in such succeeding condition book for the running of the first of the races described therein.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

3769-4-06

Conflict in interest.

- (A) No steward, racing secretary, employee in the racing secretary's office, starter, assistant starter, state veterinarian, track veterinarian, assistants to the state veterinarian or track veterinarian, or any other racing official of a permit holder whose appointment of position must be reported to and approved by the commission, as provided in rule 3769-2-10 of the Administrative Code, shall, while serving in an official capacity at such track, race or permit or cause to be raced any horse in which he or she or his or her spouse or child has an interest, either direct or indirect, at a race track at which such person is employed.
- (B) The appointed and/or commission approved positions of race track owners, announcer, director of publicity and/or public relations, horsemen's bookkeeper and track physician are specifically exempted from paragraph (A) of this rule.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985, 04/01/1988, 02/06/1999

3769-4-07

Minors.

Any minor sixteen years of age or under shall not be admitted to the grandstand, club house or similar areas of any race track at which wagering is permitted unless accompanied by an adult member of his/her family. The provision shall not apply to state, county or independent fairs. No person under the age of eighteen years shall be permitted to wager at any horse racing meeting.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/01/1974, 01/01/1985, 10/04/1992

3769-4-08

Unlawful gambling.

No permit holder shall allow bets to be made on its grounds on any racing outside of its grounds except as permitted under section 3769.089 of the Revised Code, and no unlawful gambling device of any kind shall be permitted on said grounds.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

3769-4-09

Bookmaking not permitted.

No permit holder shall allow the making of book or the operation of handbooks on its grounds. If such practices are found to exist, the permit holder shall take immediate steps to eliminate same under the penalty provided by rule 3769-4-99 of the Administrative Code. Any persons licensed with the commission in any capacity found betting with bookmakers may be deprived of their licenses, ejected from the grounds and denied entrance to any other race meeting in Ohio. Any other persons found betting with such bookmakers may be ejected from the course and denied further entrance to any Ohio race meeting.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

3769-4-10

Prevent touting.

No tipster or tout shall be permitted to operate on the premises of any permit holder. The permit holder shall, under the penalties provided in rule 3769-4-99 of the Administrative Code, take steps to prevent any touting upon its premises and may be held accountable for any touting found to exist thereon.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

3769-4-11

Condition of premises.

Every permit holder shall at all times maintain its premises and race track in good condition, with special consideration for the comfort and safety of the public; of the horses stabled, exercising or entered to race; and all those whose business requires their attendance thereat and to this end shall have available adequate and proper implements to maintain a consistent uniform track, weather conditions permitting.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985

3769-4-12

Stable area security.

- (A) The secured area of a race track premises shall include any area to which access is only granted to persons licensed by the Ohio state racing commission for access to said area or to which written permission must be obtained from the state steward or a representative of track security in order for an unlicensed person to enter for any reason. If the permission is granted by track security a copy of the written permission shall immediately be delivered to the state steward.
- (1) Secured areas of race tracks shall include, but not be limited to, barn or stable areas, paddocks, stewards stands, state testing barn, jockey rooms, and behind the counter of any race secretary's office.
- (2) This rule shall not apply to members or employees of the Ohio state racing commission, track security personnel or to track management personnel approved for access by the general manager of the race track.
- (B) The stable area of the premises of every permit holder shall be enclosed with anti-personnel chain fencing and shall have a twenty-four-hour guard at any opening during a horse racing meeting. Around-the-clock patrol of such area shall be maintained by security officers who shall pay special attention to the presence of unauthorized personnel to the enforcement of fire prevention measures and to the inspection of tack rooms and living quarters for fire hazards. No horses shall be quartered in any shelter, structure or building except barns of permanent-type construction, nor shall any barn used for the stabling of horses in such area contain temporary open-slat stalls. If conversions or temporary stalls are used, they shall have solid partitions between them and the stalls shall be a minimum of one hundred square feet in area and aisles between stalls shall have a minimum width of eight feet.
- (C) When security officers find any unauthorized personnel, or any other violations of the rules, they shall make an immediate report in writing to the permit holder and there shall be a copy delivered to the chief of security, the state steward and to the Ohio state racing commission.
- (D) The permit holder is responsible for providing the necessary security personnel to enforce this rule and their failure to do so shall subject them to the penalties provided in rule 3769-4-99 of the Administrative Code.
- (E) Any licensed security officer who fails to carry out the duties called for in this rule shall be subject to the penalties provided in rule 3769-4-99 of the Administrative Code.

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	09/01/1976, 01/01/1985, 08/01/1991, 12/04/2009

3769-4-13

Maintain ambulance.

- (A) Every commercial permit holder shall furnish and maintain at least one ambulance for human use, staffed with two or more paramedics as defined in section 4765.01 of the Revised Code. Such ambulance shall be properly and fully equipped to include a defibrillator and such other equipment as directed from time to time by order of the commission, licensed to operate on public highways, and ready for immediate duty during training and racing hours and until the day's program is completed. Said ambulance shall be located at a point on the permit holder's premises where it can respond to all calls in the shortest possible time, and shall be prepared and licensed to transport an injured person(s) when necessary from the racetrack facility directly to a hospital or other emergency medical treatment facility located off the grounds of the racetrack. During the running of the race, unless otherwise directed by the stewards due to weather conditions or other extraordinary circumstances, the ambulance shall follow the field until the conclusion of the race. If the ambulance is being used to transport an individual, the permit holder may not conduct a race or allow horses on the racetrack until an ambulance returns.
- (B) Every commercial permit holder shall furnish and maintain at least one horse ambulance properly equipped and placed at a location on the permit holder's premises so as to be able to respond to a call in the shortest possible time. This ambulance shall be available for the duration of the meeting.

Five Year Review (FYR) Dates:

Certification

Date

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Statutory Authority:	3769.03
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3769-4-14

Floodlights.

Every permit holder shall install and maintain at his track floodlights to provide adequate illumination of the stable areas at night.

Five Year Review (FYR) Dates:

Certification

Date

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3769-4-15

Refuse pits.

Every permit holder shall provide proper and well-located boxes or pits for separately receiving stable manure and other refuse, situated well distant from living quarters. Such boxes and pits shall be emptied and their contents entirely removed from the premises of the permit holder daily except Sundays, and the areas sprayed or dusted for insects on a timely routine schedule.

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Date

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3769-8-02

Trainer responsible for condition of horses.

- (A) The trainer shall be the absolute insurer of, and responsible for, the condition of the horse entered in a race, regardless of the acts of third parties. Should the chemical or other analysis of urine or blood specimens prove positive, showing the presence of any foreign substance not permitted by rule 3769-8-01 of the Administrative Code, the trainer of the horse, the foreman in charge of the horse, the groom, and any other person shown to have had the care or attendance of the horse may, in the discretion of the commission, be subjected to penalties provided in paragraph (B) of this rule. Permit holders, other than county or independent fairs, shall provide and maintain a state testing area to include a group of stalls for the accomodation of the horses as are designated in rule 3769-8-01 of the Administrative Code, and such horses shall remain in the state testing barn area until required specimens have been obtained by the veterinarian and until he shall have released said horses. All persons shall be excluded from said area except owners, trainers, or their representatives, horses from which the specimens are taken, the authorized veterinarian and his assistants and any representative of the commission.
- (B) The stewards may fine any licensee who violates this rule an amount not in excess of one thousand dollars and/or suspend any commission license held by such licensee for a period not to exceed one year and/or refer the matter to the commission for its consideration. The commission may on its own motion, or in addition to any penalty assessed by stewards, revoke or suspend any commission license held by any person who violates this rule and/or rule off and/or refuse to grant a license to any person who violates this rule.

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Rule Amplifies:	3769.03
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3769-8-03

Who must be present when sample taken.

- (A) The owner, trainer, groom or other representative must be present in the state testing barn when a test sample is taken from the horse, and must remain until the test sample is sealed. The official tag attached to a test sample shall be signed by the owner, trainer, groom or other representative as witness to the taking of such test sample. Willful failure to be present at, or a refusal to allow, or any act or threat to impede or prevent or otherwise interfere with, the taking of any such test sample shall subject the licensee guilty thereof to immediate suspension by the stewards, and the matter shall be referred to the commission for its consideration.
- (B) No owner or trainer who is not present either in person or by representative when a test sample is taken from his horse will be heard to claim at any future time that the test sample was not the one taken from his horse.

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3769-8-04

Nerved horses.

- (A) All horses that have been nerved shall be so designated on the front of the jockey club certificate and all claim authorization forms for such horses. It is the responsibility of the owner of the horse at the time the horse is nerved to see that this information is placed on the registration certificate and the eligibility certificate. All horses that have been nerved prior to the adoption of this rule must also be certified and it will be the responsibility of the owner or the trainer of such horse to see that such information is carried on the registration certificate. No trainer or owner will be permitted to enter or start a horse that is high-nerved. It shall be the responsibility of the owner and/or trainer of a horse that has been low-nerved to post on the bulletin board in the racing office at each track where the horse competes the fact that the horse has been low-nerved, and it is the responsibility of each track to provide a space in the racing office where the fact of nerving can be posted in accordance with this rule. Where these requirements have been met, low-nerved horses will be permitted to start.
- (B) Only the palmar (posterior) digital neurectomy (low nerving) by surgical or other physical (example: freezing) or chemical (example: injecting alcohol or snake venom) means will be permitted in horses to be raced. Only the posterior digital nerve and middle branches to the palmar (posterior/back) part of the foot may be desensitized. This procedure must be done below the fetlock. The dorsal (anterior/front) branches must be preserved so the horse has feeling at the coronary band at the front of the foot on both sides of the midline. Lack of feeling at the coronary band on the front of the foot is prima facie evidence that a horse has been nerved in contravention of this rule. Incisions over nerves at or above the fetlock may be evidence that the horse has been high-nerved, even if partial or complete feeling is present at the front of the coronary band of the foot. In horses racing or to be raced, no "high nerving" (at or above the fetlock, including volar, palmar or plantar nerves) is permitted by any means: surgical, physical, including but not limited to injection of alcohol or snake venom. Any offending party may be ruled off or otherwise penalized under the provisions of rule 3769-8-99 of the Administrative Code.

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Rule Amplifies:	3769.03
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3769-8-06

Controlled substances and/or narcotics prohibited.

Any person licensed by the Ohio state racing commission who shall be found with any controlled substance as defined by the Ohio state board of pharmacy or narcotic drug in his/her possession while on the premises of any permit holder shall be fined and/or suspended by the stewards in accordance with rule 3769-8-99 of the Administrative Code.

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Prior Effective Dates:	03/15/1966, 01/01/1985, 03/19/1987

3769-8-07

Possessions prohibited.

- (A) No person shall have in his/her possession on the premises of a permit holder any nasogastric tube, drugs, chemicals which may be used as stimulants, hypodermic syringes or hypodermic needles or any other instrument which may be used for injection, or batteries or any other electrical or mechanical instrument which may be used to affect the speed or actions of a horse. Any offending party may be ruled off. This rule shall not be construed to apply to a veterinary surgeon licensed by the commission.
- (B) No veterinarian shall leave a container of any prohibited drug on the premises of a permit holder nor shall he leave or dispose of hypodermic syringes or hypodermic needles or any other instrument which may be used for injection on the premises of the permit holder whether used or unused. Any violation of this rule shall be subject to the penalties as outlined in rule 3769-8-99 of the Administrative Code.

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Prior Effective Dates:	03/15/1966, 01/01/1985, 10/04/1992, 02/06/1999, 08/01/2009

3769-8-09

Use of drugs prohibited.

- (A) In order to ensure the public safety and protect the integrity of horse racing in the state of Ohio, the commission intends to regulate the use of any drug of abuse, as governed by division (A) of section 3719.011 of the Revised Code, by any licensee who is responsible for the conduct of a race or whose duties include the training, exercising, riding or caring for a horse. It shall also include all track employees who, while at work operate mechanical devices of any type which could cause injury to the operator of such device or to others. Mechanical devices include but are not limited to motor vehicles, tractors and mowers.
- (B) For purposes of this rule, "licensee" means any person licensed by the commission whose duties include any of the following: training, exercising, riding or caring for a horse or any licensed racing official who is involved in the conduct of a race, including but not limited to:
- (1) Apprentice jockey;
 - (2) Assistant starter;
 - (3) Assistant trainer;
 - (4) Dentist;
 - (5) Exercise boy/girl;
 - (6) Groom;
 - (7) Horseshoer;
 - (8) Jockey;
 - (9) Maintenance and track conditioning employees;
 - (10) Any official whose appointment must be approved by the Ohio state racing commission as identified in rule 3769-2-10 of the Administrative Code;
 - (11) Outrider;
 - (12) Owner;
 - (13) Paddock judge;

- (14) Starter;
 - (15) Steward;
 - (16) Trainer;
 - (17) Valet;
 - (18) Veterinarian;
 - (19) Veterinarian's assistant.
- (C) The personal use of any drug of abuse, as defined in division (A) of section 3719.011 of the Revised Code, is prohibited without a legal prescription. Acting with reasonable cause or through random selection by lottery, the state steward, secretary of the commission, any member of the commission, any investigator employed by the Ohio state racing commission, or the chief of security at the track may direct any licensee, as defined in paragraph (B) of this rule, to submit a sample of their urine to the track physician or other representative of the commission. The urine sample shall be provided in the manner prescribed by the commission. Any random selection by lottery may be witnessed by a representative of the licensee group involved. The commission may alter the number of names to be drawn each day and for each race.
- (D) Such samples or tests pursuant to the requirements in paragraph (C) of this rule may be requested at any time a licensee is acting within the scope of his or her license while on the premises of an Ohio state racing commission permit holder. When a licensee has been given notice by the state steward, any member of the commission, the secretary of the commission, commission investigator or inspector or the chief of security at the race track, it shall be considered a failure and/or refusal if the licensee does not provide a valid urine sample prior to the end of the last race on that day.
- (E) Failure or refusal of any licensee to supply a valid urine sample when requested to do so by one or more of the persons designated in paragraph (C) of this rule shall subject the licensee to an immediate fine of two hundred fifty dollars and a suspension of sixty days for a first offense. A second and all subsequent failures or refusals to provide a requested urine sample shall subject the individual to a fine of one thousand dollars and a suspension of one year, and in addition, the individual shall be referred to the Ohio state racing commission for any further action deemed necessary.
- (F) In the event that the urine analysis results should disclose the presence of any drug of abuse prohibited in paragraph (C) of this rule, the following action shall be taken:
- (1) For a first offense, an official ruling will be issued notifying the licensee that his or her sample or test was positive for a prohibited substance and that he or she

will be subject to future mandatory drug testing. In addition, upon the delivery of such official ruling, the individual shall be immediately suspended for ten days and fined two hundred fifty dollars.

- (2) For a second offense, an official ruling will be issued indicating the licensee has tested positive for a prohibited substance on two occasions. Upon delivery of such official ruling, said individual's license shall be immediately suspended for a period of twenty days and the licensee shall be fined the sum of two hundred fifty dollars. The licensee will be prohibited from participating in racing in the state of Ohio until he or she presents the state steward with proof that he or she has voluntarily enrolled in a rehabilitation program approved by the commission, and a report from said program indicating the licensee's satisfactory attendance and participation in the program.
 - (3) For a third or subsequent offense, the licensee shall immediately be fined one thousand dollars and suspended for one year. In addition, his or her case will be referred to the commission for further action. The licensee shall also be required to provide proof that he or she has satisfactorily completed a commission approved substance abuse program prior to the commission considering his or her application for any type of a license.
- (G) In the event any licensee subject to this rule is taking a substance pursuant to a valid prescription on order from a licensed physician or dentist, it shall be that licensee's responsibility to give written notice of same to the state steward prior to participating in any racing activities. The written notice shall contain the following:
- (1) Name of the substance;
 - (2) The quantity and dosage of the substance prescribed.
- (H) Any work product resulting from an investigation pursuant to this rule shall be a confidential law enforcement investigatory record as defined in section 149.43 of the Revised Code.
- (I) All urine analyses shall be conducted at the expense of the commission by the Ohio state university testing laboratory or other testing laboratory approved by the commission.
- (J) Any licensee receiving an official ruling alleging a violation of this rule may request a hearing in accordance with the provisions of Chapter 119. of the Revised Code and rule 3769-7-42 of the Administrative Code.
- (K) Information concerning positive test results will be released only in accordance with section 149.43 of the Revised Code the public records statute.

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3769-8-10

Trainer and veterinarian responsible for reporting notice of disease or death.

- (A) The trainer shall be absolutely responsible for reporting to the stewards and/or to the commission veterinarian the death of any horse in the care of said trainer, which horse is currently stabled on the premises of the permit holder. Said report must be filed in writing on forms furnished by the commission and delivered to the stewards and/or the commission veterinarian within twenty-four hours of the death of the horse.
- (B) The trainer shall be absolutely responsible for reporting to the stewards and/or to the commission veterinarian a notice in writing on forms furnished by the commission, the name of any veterinarian who treats a horse in the care of said trainer, which horse is currently stabled on the premises of the permit holder, when said treatment is diagnosed as being for a contagious or infectious disease.
- (C) It shall be the responsibility of both the trainer and any veterinarian who has reason to suspect the existence of a contagious or infectious disease in any horse to give notice, in writing, on forms furnished by the commission, to the commission, or to the stewards when said horse is stabled on the premises of a permit holder. Said notice shall be given to the commission veterinarian or the stewards as quickly as possible, but in no event shall the time period be more than seventy-two hours after said veterinarian has examined said horse and/or treated said horse for such disease.
- (D) For purposes of this rule "contagious or infectious disease" means any disease which is capable of transmission by any means from a carrier animal to a human or to any other animal.

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3769-8-11

Disposal of dead horse - autopsy.

In the event that a horse should die on the premises of a permit holder or elsewhere, the commission veterinarian or the state steward may order an autopsy to be performed on said horse for the purpose of ascertaining the cause of death. In the event that such autopsy is ordered, the cost thereof shall be borne by the commission.

In the event that a horse should die on the premises of a permit holder, said horse may not be removed from the premises without first obtaining permission to remove the horse, either from the commission veterinarian or the state steward.

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Prior Effective Dates:	05/05/1986

3769-8-12

Independent analysis of official specimen.

- (A) The commission veterinarian shall, whenever physically possible, collect a minimum of fifty milliliters of urine and a minimum of thirty milliliters of blood specimens from each horse selected for testing by the stewards.
- (1) The official laboratory shall retain all portions of each specimen in secure, limited access, frozen storage at a site approved by the commission for the time period required by this rule;
 - (2) If the results of tests on a specimen are negative, the official laboratory may discard all portions of said specimen;
 - (3) If the results of tests on a specimen are positive, the official laboratory shall retain all portions of said specimen until the matter has been finally adjudicated or until directed to forward the specimen or a portion thereof to another laboratory for independent analysis;
 - (4) The trainer and/or owner shall not be entitled to a retained specimen in those instances where the official laboratory deems it necessary to consume the entirety of an official specimen for official laboratory testing purposes.
- (B) The results of all tests performed by the official laboratory shall remain confidential until the time of the stewards hearing, if any, and shall be communicated only to the executive director of the commission, the state steward and the trainer. The trainer shall be responsible for notifying the owner of a horse of a positive test result as reported by the official laboratory.
- (1) The trainer or owner of a horse for which a positive test result was reported may request that the retained specimen or a portion thereof be retested in accordance with this rule. A commission approved independent laboratory or the official laboratory must perform the retest;
 - (2) Approved independent laboratories are identified on a list maintained by the commission;
 - (3) Approved independent laboratories must establish reasonable fees for testing that may include the costs of testing negative control specimens if requested by the trainer or owner;
 - (4) The request for retesting shall be in writing and shall be delivered to the stewards not more than forty-eight hours after the issuance of notification to the trainer

regarding the positive by the stewards. Notice of a positive test result shall be communicated in writing to the trainer and may also be communicated orally to the trainer. Failure to request retesting of the retained specimen within forty-eight hours of issuance of notification to the trainer regarding the positive by the stewards shall constitute waiver of this right;

- (5) The laboratory selected by the trainer or owner for independent testing of the retained specimen shall be contacted by a representative of the commission to request acceptance of the specimen for testing;
 - (6) The owner or trainer is entitled to be present at the retest if they have requested retesting of the retained specimen by the official laboratory;
 - (7) The results of testing by an approved independent laboratory shall be furnished to the commission and may be introduced as evidence in any hearing;
 - (8) If a retained specimen is sent to an independent laboratory for retesting, the official laboratory shall arrange for shipment of the specimen in a manner that ensures the integrity of the sample. Costs of shipping and handling will be paid by the owner or trainer requesting the retest;
 - (9) The identity of the drug or drug metabolite(s) identified by the official laboratory shall be communicated to the independent laboratory in writing;
 - (10) Should the independent laboratory determine that there is insufficient sample volume to retest the sample, or if an act of god, power failure, accident, labor strike or any other event beyond the control of the commission or its representatives prevents the retained sample from being tested, then the results of tests performed by the official laboratory shall be prima facie evidence of the presence of the substance(s) identified by the official laboratory.
 - (11) The trainer or owner may request that negative control samples be tested with the retained sample. The relative identities of the negative control samples and the retained sample shall be known only to the official laboratory.
- (C) The independent laboratory shall send a confidential written report of the results of its tests to the commission, which in turn shall send a confidential report to the trainer and owner forthwith.
- (1) No action shall be taken against the trainer or owner if the results of the retesting are negative.
 - (2) Should the results of retesting prove negative, the owner or trainer shall be reimbursed by the commission for all costs of retesting.

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3769-8-99

Penalties commission may impose.

- (A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

- (B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.
- (C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.
- (D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.
- (E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor.

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3769-17-09.1 **Safety reins.**

- (A) No person riding on a sulky or jog cart shall race, train or jog a horse on the grounds of a facility under the jurisdiction of the Ohio state racing commission unless the horse is equipped with safety reins. A safety rein is a rein designed and constructed to provide a secure secondary attachment to the bit that is secured to a reinforcement material to prevent failure due to breakage of the rein, or breakage or inadvertent loss of the primary connection to the bit.
- (B) This rule is enacted to adopt the safety measures encouraged by the association of racing commissioners international. Upon notification from the association of racing commissioners international that standards for the safety reins have been set, the commission shall send notice to the Ohio harness horsemen's association and any other group or persons who request such notice. The notice will indicate that paragraph (A) of rule 3769-17-09.1 of the Administrative Code will be enforced on the one-hundred eightieth day after the date of the notice.

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3769-18-02

Trainer responsible for condition of horses.

- (A) The trainer shall be the absolute insurer of, and responsible for, the condition of the horse entered in a race, regardless of the acts of third parties. Should the chemical or other analysis of urine or blood specimens prove positive, showing the presence of any foreign substance not permitted by rule 3769-18-01 of the Administrative Code, the trainer of the horse, the foreman in charge of the horse, the groom, and any other person shown to have had the care or attendance of the horse may, in the discretion of the commission, be subjected to penalties provided in paragraph (B) of this rule. Permit holders, other than county or independent fairs, shall provide and maintain a state testing area to include a group of stalls for the accomodation of the horses as are designated in rule 3769-18-01 of the Administrative Code, and such horses shall remain in the state testing barn area until required specimens have been obtained by the veterinarian and until he shall have released said horses. All persons shall be excluded from said area except owners, trainers, or their representatives, horses from which the specimens are taken, the authorized veterinarian and his assistants and any representative of the commission.
- (B) The judges may fine any licensee who violates this rule an amount not in excess of one thousand dollars and/or suspend any commission license held by such licensee for a period not to exceed one year and/or refer the matter to the commission for its consideration. The commission may on its own motion, or in addition to any penalty assessed by stewards, revoke or suspend any commission license held by any person who violates this rule and/or rule off and/or refuse to grant a license to any person who violates this rule.

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3769-18-03

Who must be present when sample taken.

- (A) The owner, trainer, groom or other representative must be present in the state testing barn when a test sample is taken from the horse, and must remain until the test sample is sealed. The official tag attached to a test sample shall be signed by the owner, trainer, groom or other representative as witness to the taking of such test sample. Willful failure to be present at, or a refusal to allow, or any act or threat to impede or prevent or otherwise interfere with, the taking of any such test sample shall subject the licensee guilty thereof to immediate suspension by the judges, and the matter shall be referred to the commission for its consideration.
- (B) No owner or trainer who is not present either in person or by representative when a test sample is taken from his horse will be heard to claim at any future time that the test sample was not the one taken from his horse.

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3769-18-04

Nerved horses.

- (A) All horses that have been nerved shall be so designated onto their electronic eligibility and all claim authorization forms for such horses. It is the responsibility of the owner of the horse at the time the horse is nerved to see that this information is placed on the registration certificate and the electronic eligibility. All horses that have been nerved prior to the adoption of this rule must also be certified and it will be the responsibility of the owner or the trainer of such horse to see that such information is carried on the registration certificate. No trainer or owner will be permitted to enter or start a horse that is high-nerved. It shall be the responsibility of the owner and/or trainer of a horse that has been low-nerved to post on the bulletin board in the racing office at each track where the horse competes the fact that the horse has been low-nerved, and it is the responsibility of each track to provide a space in the racing office where the fact of nerving can be posted in accordance with this rule. Where these requirements have been met, low-nerved horses will be permitted to start.
- (B) Only the palmar (posterior) digital neurectomy (low nerving) by surgical or other physical (example: freezing) or chemical (example: injecting alcohol or snake venom) means will be permitted in horses to be raced. Only the posterior digital nerve and middle branches to the palmar (posterior/back) part of the foot may be desensitized. This procedure must be done below the fetlock. The dorsal (anterior/front) branches must be preserved so the horse has feeling at the coronary band at the front of the foot on both sides of the midline. Lack of feeling at the coronary band on the front of the foot is prima facie evidence that a horse has been nerved in contravention of this rule. Incisions over nerves at or above the fetlock may be evidence that the horse has been high-nerved, even if partial or complete feeling is present at the front of the coronary band of the foot. In horses racing or to be raced, no "high nerving" (at or above the fetlock, including volar, palmar or plantar nerves) is permitted by any means: surgical, physical, including but not limited to injection of alcohol or snake venom. Any offending party may be ruled off or otherwise penalized under the provisions of rule 3769-18-99 of the Administrative Code.

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3769-18-06

Controlled substances and/or narcotics prohibited.

Any person licensed by the Ohio state racing commission who shall be found with any controlled substance as defined by the Ohio state board of pharmacy or narcotic drug in his/her possession while on the premises of any permit holder shall be fined and/or suspended by the judges in accordance with rule 3769-18-99 of the Administrative Code.

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3769-18-07

Possessions prohibited.

- (A) No person shall have in his/her possession on the premises of a permit holder any nasogastric tube, drugs, chemicals which may be used as stimulants, hypodermic syringes or hypodermic needles or any other instrument which may be used for injection, or batteries or any other electrical or mechanical instrument which may be used to affect the speed or actions of a horse. Any offending party may be ruled off. This rule shall not be construed to apply to a veterinary surgeon licensed by the commission.
- (B) No veterinarian shall leave a container of any prohibited drug on the premises of a permit holder nor shall he leave or dispose of hypodermic syringes or hypodermic needles or any other instrument which may be used for injection on the premises of the permit holder whether used or unused. Any violation of this rule shall be subject to the penalties as outlined in rule 3769-18-99 of the Administrative Code.

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3769-18-09

Use of drugs prohibited.

- (A) In order to ensure the public safety and protect the integrity of horse racing in the state of Ohio, the commission intends to regulate the use of any drug of abuse, as governed by division (A) of section 3719.011 of the Revised Code, by any licensee who is responsible for the conduct of a race or whose duties include the training, exercising, driving or caring for a horse. It shall also include all track employees who, while at work operate mechanical devices of any type which could cause injury to the operator of such device or to others. Mechanical devices include but are not limited to motor vehicles, tractors and mowers.
- (B) For purposes of this rule, "licensee" means any person licensed by the commission whose duties include any of the following: training, exercising, driving or caring for a horse or any licensed racing official who is involved in the conduct of a race, including but not limited to:
- (1) Assistant starter;
 - (2) Assistant trainer;
 - (3) Dentist;
 - (4) Driver;
 - (5) Driver-Trainer;
 - (6) Groom;
 - (7) Horseshoer;
 - (8) Judge;
 - (9) Maintenance and track conditioning employees;
 - (10) Any official whose appointment must be approved by the Ohio state racing commission as identified in rule 3769-12-10 of the Administrative Code;
 - (11) Owner;
 - (12) Paddock judge;
 - (13) Starter;

- (14) Starting gate driver;
 - (15) Trainer;
 - (16) Veterinarian;
 - (17) Veterinarian's assistant.
- (C) The personal use of any drug of abuse, as defined in division (A) of section 3719.011 of the Revised Code, is prohibited without a legal prescription. Acting with reasonable cause or through random selection by lottery, the presiding judge, secretary of the commission, any member of the commission, any investigator employed by the commission, or the chief of security at the track may direct any licensee, as defined in paragraph (B) of this rule, to submit a sample of their urine to the track physician or other representative of the commission. The urine sample shall be provided in the manner prescribed by the commission. Any random selection by lottery may be witnessed by a representative of the licensee group involved. The commission may alter the number of names to be drawn each day and for each race.
- (D) Such samples or tests pursuant to the requirements in paragraph (C) of this rule may be requested at any time a licensee is acting within the scope of his or her license while on the premises of an Ohio state racing commission permit holder. When a licensee has been given notice by the presiding judge, any member of the commission, the secretary of the commission, commission investigator or inspector or the chief of security at the race track, it shall be considered a failure and/or refusal if the licensee does not provide a valid urine sample prior to the end of the last race on that day.
- (E) Failure or refusal of any licensee to supply a valid urine sample when requested to do so by one or more of the persons designated in paragraph (C) of this rule shall subject the licensee to an immediate fine of two hundred fifty dollars and a suspension of sixty days for a first offense. A second and all subsequent failures or refusals to provide a requested urine sample shall subject the individual to a fine of one thousand dollars and a suspension of one year, and in addition, the individual shall be referred to the Ohio state racing commission for any further action deemed necessary.
- (F) In the event that the urine analysis results should disclose the presence of any drug of abuse prohibited in paragraph (C) of this rule, the following action shall be taken:
- (1) For a first offense, an official ruling will be issued notifying the licensee that his or her sample or test was positive for a prohibited substance and that he or she will be subject to future mandatory drug testing. In addition, upon the delivery of such official ruling, the individual shall be immediately suspended for ten days and fined two hundred fifty dollars.

- (2) For a second offense, an official ruling will be issued indicating the licensee has tested positive for a prohibited substance on two occasions. Upon delivery of such official ruling, said individual's license shall be immediately suspended for a period of twenty days and the licensee shall be fined the sum of two hundred fifty dollars. The licensee will be prohibited from participating in racing in the state of Ohio until he or she presents the presiding judge with proof that he or she has voluntarily enrolled in a rehabilitation program approved by the commission, and a report from said program indicating the licensee's satisfactory attendance and participation in the program.
 - (3) For a third or subsequent offense, the licensee shall immediately be fined one thousand dollars and suspended for one year. In addition, his or her case will be referred to the commission for further action. The licensee shall also be required to provide proof that he or she has satisfactorily completed a commission approved substance abuse program prior to the commission considering his or her application for any type of a license.
- (G) In the event any licensee subject to this rule is taking a substance pursuant to a valid prescription on order from a licensed physician or dentist, it shall be that licensee's responsibility to give written notice of same to the presiding judge prior to participating in any racing activities. The written notice shall contain the following:
- (1) Name of the substance;
 - (2) The quantity and dosage of the substance prescribed.
- (H) Any work product resulting from an investigation pursuant to this rule shall be a confidential law enforcement investigatory record as defined in section 149.43 of the Revised Code.
- (I) All urine analyses shall be conducted at the expense of the commission by the Ohio state university testing laboratory or other testing laboratory approved by the commission.
- (J) Any licensee receiving an official ruling alleging a violation of this rule may request a hearing in accordance with the provisions of Chapter 119. of the Revised Code and rule 3769-17-41 of the Administrative Code.
- (K) Information concerning positive test results will be released only in accordance with section 149.43 of the Revised Code, the public records statute.

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Certification

Date

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3769-18-10

Trainer and veterinarian responsible for reporting notice of disease or death.

- (A) The trainer shall be absolutely responsible for reporting to the judges and/or to the commission veterinarian the death of any horse in the care of said trainer, which horse is currently stabled on the premises of the permit holder. Said report must be filed in writing on forms furnished by the commission and delivered to the judges and/or the commission veterinarian within twenty-four hours of the death of the horse.
- (B) The trainer shall be absolutely responsible for reporting to the stewards and/or to the commission veterinarian a notice in writing on forms furnished by the commission, the name of any veterinarian who treats a horse in the care of said trainer, which horse is currently stabled on the premises of the permit holder, when said treatment is diagnosed as being for a contagious or infectious disease.
- (C) It shall be the responsibility of both the trainer and any veterinarian who has reason to suspect the existence of a contagious or infectious disease in any horse to give notice, in writing, on forms furnished by the commission, to the commission, or to the judges when said horse is stabled on the premises of a permit holder. Said notice shall be given to the commission veterinarian or the judges as quickly as possible, but in no event shall the time period be more than seventy-two hours after said veterinarian has examined said horse and/or treated said horse for such disease.
- (D) For purposes of this rule "contagious or infectious disease" means any disease which is capable of transmission by any means from a carrier animal to a human or to any other animal.

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Disposal of dead horse - autopsy.

In the event that a horse should die on the premises of a permit holder or elsewhere, the commission veterinarian or the state judge may order an autopsy to be performed on said horse for the purpose of ascertaining the cause of death. In the event that such autopsy is ordered, the cost thereof shall be borne by the commission.

In the event that a horse should die on the premises of a permit holder, said horse may not be removed from the premises without first obtaining permission to remove the horse, either from the commission veterinarian or the state judge.

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3769-18-12

Independent analysis of official specimen.

- (A) The commission veterinarian shall, whenever physically possible, collect a minimum of fifty milliliters of urine and a minimum of thirty milliliters of blood specimens from each horse selected for testing by the judges.
- (1) The official laboratory shall retain all portions of each specimen in secure, limited access, frozen storage at a site approved by the commission for the time period required by this rule;
 - (2) If the results of tests on a specimen are negative, the official laboratory may discard all portions of said specimen;
 - (3) If the results of tests on a specimen are positive, the official laboratory shall retain all portions of said specimen until the matter has been finally adjudicated or until directed to forward the specimen or a portion thereof to another laboratory for independent analysis;
 - (4) The trainer and/or owner shall not be entitled to a retained specimen in those instances where the official laboratory deems it necessary to consume the entirety of an official specimen for official laboratory testing purposes.
- (B) The results of all tests performed by the official laboratory shall remain confidential until the time of the judges' hearing, if any, and shall be communicated only to the executive director of the commission, the presiding judge, and the trainer. The trainer shall be responsible for notifying the owner of a horse of a positive test result as reported by the official laboratory.
- (1) The trainer or owner of a horse for which a positive test result was reported may request that the retained specimen or a portion thereof be retested in accordance with this rule. A commission approved independent laboratory or the official laboratory must perform the retest;
 - (2) Approved independent laboratories are identified on a list maintained by the commission;
 - (3) Approved independent laboratories must establish reasonable fees for testing that may include the costs of testing negative control specimens if requested by the trainer or owner;
 - (4) The request for retesting shall be in writing and shall be delivered to the judges not more than forty-eight hours after the issuance of the notification to the trainer

regarding the positive by the judges. Notice of a positive test result shall be communicated in writing to the trainer and may also be communicated orally to the trainer. Failure to request retesting of the retained specimen within forty-eight hours of issuance of notification to the trainer regarding the positive by the ruling of the judges shall constitute a waiver of this right.

- (5) The laboratory selected by the trainer or owner for independent testing of the retained specimen shall be contacted by a representative of the commission to request acceptance of the specimen for testing;
 - (6) The owner or trainer is entitled to be present at the retest if they have requested retesting of the retained specimen by the official laboratory;
 - (7) The results of testing by an approved independent laboratory shall be furnished to the commission and may be introduced as evidence in any hearing;
 - (8) If a retained specimen is sent to an independent laboratory for retesting, the official laboratory shall arrange for shipment of the specimen in a manner that ensures the integrity of the sample. Costs of shipping and handling will be paid by the owner or trainer requesting the retest;
 - (9) The identity of the drug or drug metabolite(s) identified by the official laboratory shall be communicated to the independent laboratory in writing;
 - (10) Should the independent laboratory determine that there is insufficient sample volume to retest the sample, or if an act of god, power failure, accident, labor strike or any other event beyond the control of the commission or its representatives prevents the retained sample from being tested, then the results of tests performed by the official laboratory shall be prima facie evidence of the presence of the substance(s) identified by the official laboratory.
 - (11) The trainer or owner may request that negative control samples be tested with the retained sample. The relative identities of the negative control samples and the retained sample shall be known only to the official laboratory.
- (C) The independent laboratory shall send a confidential written report of the results of its tests to the commission, which in turn shall send a confidential report to the trainer and owner forthwith.
- (1) No action shall be taken against the trainer or owner if the results of the retesting are negative.
 - (2) Should the results of retesting prove negative, the owner or trainer shall be reimbursed by the commission for all costs of retesting.

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3769-18-99

Penalties commission may impose.

- (A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

- (B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.
- (C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.
- (D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.
- (E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor.

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