



Common Sense Initiative

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Business Impact Analysis

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

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

Amended Chapter 2 rules

Rule Number(s): 3769-2-01 – 3769-2-30; 3769-2-32 – 3769-2-39; 3769-41 – 3769-2-43; 3769-2-99

Date of Submission for CSI Review: November 1

Public Comment Period End Date: November 8

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

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Rescinded/ rules (FYR?)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.

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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.

3769-2-01 The commission has the right to search certain areas.
3769-2-02 The commission may engage auditors to examine the permit holders' records.
3769-2-03 The procedure to adopt rules.
3769-2-04 Public notice of commission meetings.
3769-2-05 The jurisdiction of the commission.
3769-2-06 The commission rules supersede any conditions of the permit holder.
3769-2-07 The permit holder cannot give gifts to commission personnel.
3769-2-08 Application to conduct horse racing.
3769-2-09 Application for days to conduct horse racing.
3769-2-10 Each application to conduct horse racing must have a list of officials.
3769-2-11 Information that must be included in an application to conduct horse racing.
3769-2-11.1 Claims by a person against the permit holders' surety bond.
3769-2-11.2 The racing permit could be suspended if the permit holder does not have sufficient financial ability to conduct racing.
3769-2-12 The commission may grant a racing permit to a county fair. A totalizator company must be licensed.
3769-2-13 The racing permit must include certain information.
3769-2-14 The permit holders' enforcement obligations.
3769-2-15 The permit holders must post its racing permit.

3769-2-16 The permit holders' security requirements.
 3769-2-17 The permit holder must provide records to the commission.
 3769-2-18 Information that must be provided to obtain a license from the commission.
 3769-2-19 All license applicants must submit their fingerprints every five years.
 3769-2-20 The commission may require written testimony from two people before a license is issued.
 3769-2-21 The Commission's restrictions to obtain a license.
 3769-2-23 License qualifications for a trainer, assistant trainer and a horseshoer.
 3769-2-24 Licensee fees.
 3769-2-25 Only one license is required of licensees who are performing the same function at thoroughbred, harness or quarter horse meetings.
 3769-2-26 The commission may refuse to grant, may revoke or may suspend any license.
 3769-2-27 A license is required to participate in horse racing.
 3769-2-28 Limits on drinking by permit holders' employees.
 3769-2-29 A licensee can be disciplined for fraudulent or improper practice.
 3769-2-30 Other conditions where a permit holder or licensee could be sanctioned.
 3769-2-32 The procedure to request the commission to act against a licensee under the financial responsibility rule.
 3769-2-33 This rule discusses the unrestricted competitive bidding procedures pursuant to 3769.20 and 3769.08.
 3769-2-35 All simulcast races on which pari-mutuel wagering is conducted by a permit holder shall be in accordance with the rules' conditions and/or restrictions.
 3769-2-36 Unless a rule is specifically exempt from enforcement on the premises of a satellite facility, all commission rules shall apply to any satellite facility in the same manner such rules apply to a commercial permit holder.
 3769-2-37 Definitions which apply to 3769-2-37 thru 3769-2-41.
 3769-2-38 Procedures for accessing confidential personal information.
 3769-2-39 Valid reasons for accessing confidential personal information.
 3769-2-41 Restrictions to accessing confidential personal information in commission information systems.
 3769-2-42 The procedures for reciprocal licenses with the Ohio Lottery.
 3769-2-43 The procedures for the commission to determine distribution percentage of video lottery terminal income.
 3769-2-99 The penalties the commission may impose.

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. These rules ensure fair and safe racing.
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 rules were provided to the industry for comments, and their comments were integrated into the revisions. 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.)**

3769-2-01 If a person refuses to consent to searches as described in this rule, they are automatically suspended. The person could be fined and/or suspended.

3769-2-02 The permit holder would have to make the books and records available to the commission auditors.

3769-2-03 There is no adverse impact.

3769-2-04 There is no adverse impact.

3769-2-05 There is no adverse impact.

3769-2-06 There is no adverse impact.

3769-2-07 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked

3769-2-08 The permit holder must take some time to collect information and to complete the application.

3769-2-09 The permit holder must take some time to collect information and to complete the application.

3769-2-10 The permit holder must take some time to collect information and to complete the application. The commission may not approve an official.

3769-2-11 The permit holder must take some time to collect information and to complete the application.

3769-2-11.1 The permit holders' bond company may have to pay an aggrieved party.

- 3769-2-11.2 The permit holders' license could be suspended if it does not have sufficient financial ability.
- 3769-2-12 The agricultural society must obtain a license to conduct horse racing. A totalizator company must obtain a license. The agricultural society could be fined or suspended for not following the rules of racing.
- 3769-2-13 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-14 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked. The racing permit could be denied or revoked
- 3769-2-15 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-16 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-17 The permit holder must furnish records.
- 3769-2-18 The licensee must fill out an application and pay a license fee.
- 3769-2-19 A license applicant must submit fingerprints to the commission.
- 3769-2-20 An applicant may have to secure written testimony of two individuals.
- 3769-2-21 An applicant may not be able to obtain a license, or their license could have conditions.
- 3769-2-23 A license applicant may not meet qualification requirements.
- 3769-2-24 A license applicant must pay a license fee.
- 3769-2-25 No adverse impact.
- 3769-2-26 The licensee could be fined or suspended for not following this rule. The applicant may not receive a license.
- 3769-2-27 A person could be denied a license. The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-28 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked.
- 3769-2-29 A licensee could be fined or suspended for not following this rule.
- 3769-2-30 A licensee and/or permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked.
- 3769-2-32 A person must pay a financial responsibility fee.
- 3769-2-33 A permit holder may not receive a tax abatement.
- 3769-2-35 The permit holder and/or a person could be fined or suspended for not following this rule.
- 3769-2-36 The permit holder could be fined or suspended for not following this rule.
- 3769-2-37 There is no adverse impact.

3769-2-38 There is no adverse impact.
3769-2-39 There is no adverse impact.
3769-2-41 There is no adverse impact.
3769-2-42 The applicant needs a license.
3769-2-43 The permit holder could be required to pay a higher percentage.
3769-2-99 The commission may issue a fine or suspension. A license or permit may be denied or revoked.

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?

3769-2-01 The commission needs to search to find violations of the rules of racing.
3769-2-02 The commission needs to ensure that the permit holder has the financial ability to conduct horse racing.
3769-2-03 There is no adverse impact.
3769-2-04 There is no adverse impact.
3769-2-05 There is no adverse impact.
3769-2-06 There is no adverse impact.
3769-2-07 The adverse impact is justified to ensure the integrity of racing.
3769-2-08 The rule complies with 3769.04.
3769-2-09 The Commission needs race dates to comply with 3769.089 and 3769.0810.
3769-2-10 The adverse impact is justified to ensure the integrity of racing.
3769-2-11 The adverse impact is justified to ensure the integrity of racing.
3769-2-11.1 The adverse impact is justified to ensure the integrity of racing.
3769-2-11.2 The adverse impact is justified to ensure the integrity of racing.
3769-2-12 The adverse impact is justified to ensure the integrity of racing.
3769-2-13 The adverse impact is justified to ensure the integrity of racing.
3769-2-14 The adverse impact is justified to ensure the integrity of racing.
3769-2-15 Law enforcement and the public need to know if this location has a permit.
3769-2-16 The permit holders must have a safe location to conduct horse racing.
3769-2-17 The Commission needs to ensure that the permit holder is complying with the law and Commission rules.

3769-2-18 The adverse impact is justified to ensure the integrity of racing.

3769-2-19 R.C. 3769.03 requires applicants for commission license to be fingerprinted.

3769-2-20 The adverse impact is justified to ensure the integrity of racing.

3769-2-21 The adverse impact is justified to ensure the integrity of racing.

3769-2-23 The adverse impact is justified to ensure the integrity of racing.

3769-2-24 The license fees help offset the cost for a license. The fees have not been increased for several years.

3769-2-25 The adverse impact is justified to ensure the integrity of racing.

3769-2-26 The adverse impact is justified to ensure the integrity of racing.

3769-2-27 The adverse impact is justified to ensure the integrity of racing.

3769-2-28 The permit holders' employees should not be drinking while horse racing is being conducted.

3769-2-29 The adverse impact is justified to ensure the integrity of racing.

3769-2-30 The adverse impact is justified to ensure the integrity of racing.

3769-2-32 The fee offsets the cost to process the request.

3769-2-35 The permit holders' and the betting public need a consistent system for super high five wagering.

3769-2-33 The rule clarifies R.C. 3769.20.

3769-2-35 The commission needs to control the simulcast of horse races.

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3769-2-36 The adverse impact is justified to ensure the integrity of racing at these satellite facilities.

3769-2-37 There is no adverse impact.

3769-2-38 There is no adverse impact.

3769-2-39 There is no adverse impact.

3769-2-41 There is no adverse impact.

3769-2-42 The commission needs an orderly system for licensee with the Ohio Lottery.

3769-2-43 The commission is required by R.C. 3769.087.

3769-2-99 The permit holders need to know possible penalties the commission may impose.

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

3769-2-01

The commission, right to search.

- (A) Members of the commission and its representatives ~~shall~~ have the right of full and complete entry to any and all parts of the grounds and mutuel plants of permit holders.
- (B) The Ohio state racing commission, ~~and~~ its representatives, ~~or~~ the state steward or judge investigating for violations of law or of the rules and regulations of the commission, ~~shall~~ have the authority to permit persons authorized by them to search certain persons and areas as follows:
- (1) All persons licensed by the commission or persons engaged in activities that ~~require~~need a license by the commission when such persons are within the ~~race track~~racetrack premises or those who have gained access by special permission;
 - (2) Vendors licensed by the commission when they are within the ~~race track~~racetrack premises;
 - (3) Stables, rooms, vehicles and any other place within the ~~race track~~racetrack premises used by those persons who may be searched pursuant to this rule;
 - (4) Stables, rooms, ~~and~~ vehicles used or maintained by persons licensed by the commission, ~~and~~ which are located in areas outside of the ~~race track~~racetrack premises where horses eligible to race at the race meeting are stabled.
- (C) If a person refuses to consent to such searches as described above, ~~such person shall~~they will be automatically suspended by the stewards and referred to the commission who may revoke ~~said~~the licensee's Ohio state racing commission license and rule ~~said~~the licensee off all Ohio tracks for the remainder of the calendar year and/or assess any other penalty provided for in rule 3769-2-99 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3769.03
Rule Amplifies:	3769.03
Prior Effective Dates:	06/01/1976, 01/01/1985

3769-2-02

May engage auditor.

The commission may at any time, ~~engage~~ engage auditors of its own choosing to examine the books and records of any permit holder. The cost of such audit when ordered by the commission ~~shall~~will be borne by the commission.

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

3769-2-03

Procedure for adoption of rules.

- (A) A majority of the members of the Ohio state racing commission ~~shall~~will concur to adopt, amend, or rescind a rule. Any member of the Ohio state racing commission may record ~~his~~their opposition to a proposed rule or amendment in the resolution adopting such rule, rescission, or amendment.
- (B) A copy of each proposed rule, amendment, or rescission ~~shall~~will be filed with the secretary of state, the director of the legislative service commission, the joint committee on agency rule review and the office of small business as provided by section 119.03 of the Revised Code, at least thirty days prior to any public hearing on the proposed rule, rescission, or amendment.
- (C) Prior to the proposed adoption, amendment or rescission of any rule by the Ohio state racing commission, public notice ~~thereof shall~~ will be given at least thirty days prior to the date set for the public hearing thereon, by ~~advertising~~advertising in the register of Ohio in accordance with applicable state law.
- (D) The commission ~~shall~~will furnish the public notice ~~required~~needed under section 119.03 of the Revised Code and as detailed by paragraph (A) of this rule to any person who requests notice in writing and who supplies an addressed, stamped envelope and/or an electronic address.

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Rule Amplifies:	3769.03
Prior Effective Dates:	02/02/2008

3769-2-04

Public notice of commission meetings.

- (A) ~~Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by~~ The time and place of all regularly scheduled meetings or special meetings of the Ohio state racing commission may be obtained by:
- (1) Written request sent to the commission office; ~~or Writing the Ohio state racing commission (hereinafter, "commission") at its business address; or~~
 - (2) ~~Calling~~ Telephoning the commission ~~at its business~~ office during normal business hours; or
 - (3) Checking the commission's public website.
- (B) Any representative of the news media may obtain ~~notice~~ notice of all special meetings by requesting in writing that notice be provided and supplying a regular mail or electronic mail address. In the event of a special meeting not of an emergency nature, the commission ~~shall~~ will notify all media representatives who have requested notice of the meeting by doing at least one of the following:
- (1) Sending written notice, by regular mail or electronic mail no later than twenty-four hours prior to the special meeting;
 - (2) Notifying media representatives by telephone no later than twenty-four hours prior to the special meeting. Telephone notice ~~shall be~~ is complete if a message has been left for the media representative, or ~~if, with~~ with reasonable effort, the commission has been unable to provide telephone notice;
 - (3) Informing the media representative personally no later than twenty-four hours to the special meeting.
- (C) In the event of a special meeting of an emergency nature ~~requiring~~ needing immediate official action, the commission ~~shall~~ will notify all media representatives who have requested notice of such meeting of the time, place and purpose of the meeting by providing notice as described in paragraph (B)(1), (B)(2) or (B)(3) of this rule or by notifying the clerk of the state house press room. In such event, the notice need not be given twenty-four hours prior to the meeting, but ~~shall~~ will be given immediately upon completion of the meeting agenda.
- (D) All persons who have requested, in writing, advance notification of all meetings of the commission at which specific public matters designated by those persons are

scheduled to be discussed ~~shall~~will be placed on the commission's agenda mailing list. The commission ~~shall~~will, within a reasonable time prior to each meeting, send by regular mail, ~~or~~ electronic mail, or ~~by~~ fax an agenda of the meeting to those persons. The commission may assess a reasonable fee, not to exceed the cost of copying and mailing; for notices sent to persons in accordance with this rule.

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3769-2-05

Jurisdiction.

All ~~thoroughbred~~ racing in Ohio over which the commission has jurisdiction and supervision ~~shall~~will be conducted under the rules and regulations which the commission has set forth for such racing. If any case occurs which is not provided for in the rules of the Ohio state racing commission, the matter ~~shall~~will be determined by the stewards, judges, or ~~by~~ the commission as the case may be.

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Prior Effective Dates:	01/01/1985

*** DRAFT - NOT YET FILED ***

3769-2-06

Commission rules supersede.

~~This chapter or any other rule adopted by the commission supersedes the conditions of a race or the regulations of a permit holder when they conflict.~~

Except for Ohio sires stakes, Ohio Sired, Ohio-foaled, or Ohio accredited races where the conditions are approved by the commission, these rules and regulations or any other rule adopted by the commission supersede the conditions of a race or the regulations of a permit holder when they conflict.

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Rule Amplifies:	3769.03
Prior Effective Dates:	01/01/1985, 02/02/2008

3769-2-07

Gifts forbidden.

No permit holder, ~~or any member,~~ officer, director, or employee of a permit holder thereof ~~shall~~will give or offer to any member, employee, ~~or~~ representative of the commission, or to any relative of any member, employee, or representative, any thing of value with intent to influence, or which may appear to be intended to influence the member, employee, or representative of the commission in the performance of ~~his or her~~ their official duties and responsibilities.

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Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985, 02/02/2008

3769-2-08

Applicants for permit to conduct a horse race meeting.

- (A) Any person, group of persons, association, corporation, or trust desiring to hold or conduct a ~~horse racing~~horseracing meeting, wherein the parimutuel system of wagering is permitted, ~~shall~~will make application to the commission for a permit in the manner provided by section 3769.04 of the Revised Code.
- (B) In addition to the requirements of that section, the application ~~shall~~will state, or there ~~shall~~will be attached ~~thereto~~, the following information:
- (1) The full names and address of the person, persons, association, corporation, or trust making application;
 - (2) If the applicant is an association, the names and mailing addresses of all members of the association;
 - (3) If the applicant is a corporation, the name of the state where it is incorporated, the location of its principal place of business and the names and mailing addresses of all its directors and stockholders;
 - (4) If the applicant is a trust, the location of its principal place of business, and the names and addresses of all its trustees and beneficiaries;
 - (5) If the applicant is a partnership, the names and mailing addresses of each partner;
 - (6) If the applicant is a limited partnership, the name, mailing addresses, and percentage of ownership of each limited or general partner;
 - (7) The dates and exact location where the applicant will conduct race meetings;
 - (8) The proposed hours of operation on each racing day;
 - (9) A statement whether or not the racing plant is owned or leased, and if leased, the name and home address of the owner, or the names and home addresses of the directors if the lessee is a corporation; and
 - (10) Any other information the commission may ~~require~~need.

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Rule Amplifies:	3769.03
Prior Effective Dates:	03/15/1966, 01/01/1985, 02/02/2008

3769-2-09

Application for racing dates.

- (A) Applications for permits for each succeeding year ~~shall~~will be made in writing to the secretary of the commission not later than August fifteenth. The commission ~~shall~~will meet as soon as practicable for the purpose of acting on said applications. Permits issued ~~shall~~will cover only such dates as the commission ~~shall grant~~grants. The applicant; ~~however~~, may file with its application a brief, setting forth reasons for desiring the dates sought.
- (B) Applications for commercial permits ~~shall be to~~ be accompanied by a permit fee of ten dollars and a registration charge of one thousand dollars. In the case of a county agriculture society or independent agriculture society fair permit, a registration charge of one hundred dollars ~~must~~has to accompany each application. In addition, the applications ~~shall~~will be accompanied by cash, bond, bank draft, or certified check payable to the order of "Ohio State Racing Commission" in an amount equal to one hundred dollars for each day petitioned for in the application. Such deposit ~~shall~~will be held by the commission for purpose provided for in section 3769.05 of the Revised Code.
- (C) Each applicant for a commercial permit ~~shall~~will, prior to the opening of its racing season, request an inspection of the race track and receive a certificate from the state fire marshal indicating the premises of the applicant are in compliance with all of the safety requirements of the Ohio state racing commission.

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3769-2-10

File list of officials.

- (A) Each applicant for a commercial permit ~~shall will~~; at the time of making such application, or not less than thirty days prior to the first day of the racing meeting for which a permit is granted, file with the commission a listing of the names of each associate steward, associate judge, identifier, starters, racing secretary, assistant racing secretary, handicapper, clerk of scales, clerk of course, jockey room custodian, paddock judge, patrol judges, placing judges, track veterinarian, track physician, mutuel manager, simulcast coordinator, outrider, and director of security it proposes to engage or employ during the racing meeting. In addition, the general manager of each commercial track ~~shall will~~ submit certification that each official listed is competent to hold that position. No permit ~~shall will~~ be issued unless this list of officials is approved by the commission. Any changes in officials during the race meeting ~~shall will~~ be reported promptly to the commission for approval.
- (B) Before an individual is approved by the commission to serve as a steward, ~~he or she they~~ must have to demonstrate possession of the mental and physical qualifications to perform the duties ~~required of a steward or judge~~. In addition, the applicant ~~shall needs~~ to have experience, ~~and~~ knowledge of the horse racing industry, and completed the appropriate training. The commission may also consider a person's character, reputation, and temperament prior to approval.

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Rule Amplifies:	3769.03
Prior Effective Dates:	03/01/1974, 01/01/1985, 08/01/1991, 02/02/2008

3769-2-11

Permit to race.

- (A) No permit ~~shall~~will be issued under the provisions of the Ohio Revised Code to any person, association, firm or corporation engaged in the conducting of horse racing on a commercial basis solely with a view to profit unless and until such person, association, firm or corporation ~~shall have~~has filed with the commission:
- (1) A current accurate financial statement, prepared and certified by an independent certified public accountant, stating that all financial statements were made in accordance with generally accepted auditing standards and, accordingly, included tests of the accounting records and other auditing procedures as considered necessary. A statement ~~shall~~will show the net worth of the applicant for such permit and indicate the applicant can reasonably be expected to meet all financial obligations incurred in conducting the racing meeting.
 - (2) A statement as to when salaries, wages and purses that are or may be owed by the applicant ~~shall become~~are due and payable.
- (B) If, upon examination of a financial statement, the commission should entertain reasonable doubt as to the financial ability of the applicant to meet and discharge all financial obligations, the commission may ~~require~~instruct the filing of a surety bond with the commission as hereinafter provided. In no event ~~shall~~may a person, association, firm or corporation having a net worth of less than five hundred thousand dollars be issued a permit under the Ohio Revised Code unless the applicant has filed a surety bond with the commission as hereinafter provided.
- (C) In the event that the commission ~~shall determine,~~determines that a surety bond as ~~herein provided shall~~will be filed with the commission, such bond ~~shall~~will be in favor of the Ohio state racing commission as obligee, for the use and benefit of all aggrieved parties, as ~~hereinafter~~ defined, ~~shall~~will have sureties to the satisfaction of the commission in an amount not to exceed one million dollars, and ~~shall~~will be conditioned upon payment by the permit holder of all financial obligations (provided, however, that no bond ~~shall~~will be ~~required~~compelled under the provisions of this rule in the case of an applicant who has filed a bond with a nationally recognized association of horsemen for substantially equivalent coverage to that herein provided, said bond being in favor of the association as obligee for the use and benefit of substantially the same categories of persons as are defined herein as "aggrieved parties").

The term "aggrieved parties" is hereby defined as:

- (1) Agents and employees of the permit holder holding licenses issued to them by the commission pursuant to the provisions of rules 3769-2-24 and 3769-2-25 of the Administrative Code (excluding corporate officers in their capacity as such), with reference to amounts of salaries and wages owed to them which, if promptly requested when due and payable, are not paid by the permit holder forthwith, together with such amounts of any and all salaries and wages owed to them as ~~may~~might not be due and payable at the time of such failure to pay.
- (2) Owners of horses and their agents holding licenses issued to them by the commission pursuant to the provisions of rules 3769-2-24 and 3769-2-25 of the Administrative Code with reference to:
 - (a) Amounts of purses owed to them which, if promptly requested when due and payable are not paid by the permit holder forthwith, together with the amounts of any and all purses owed to them as ~~may~~might not be due and payable at the time of such failure to pay;
 - (b) Entry fees, nominating fees, eligibility fees and sustaining fees, paid for races not run; and
 - (c) Money owed to owners by the horseowners' bookkeeper for horses claimed.
- (3) The state of Ohio and any of its departments or agencies for parimutuel taxes or any other obligations owed to the state of Ohio.
- (4) The holders of all winning uncashed parimutuel tickets.
- (5) A testing laboratory which has outstanding fees owed to them.
- (6) Jockeys or drivers which have outstanding fees owed to them.
- (D) All horseowners' bookkeeper funds ~~shall~~will be held as a separate interest bearing trust fund and there ~~shall~~will be no commingling of these funds with any other funds, ~~and the~~The money ~~in such~~in the fund and all interest accrued ~~therein shall~~will be held for benefit of the horseowners. This language ~~shall~~is not be construed to ~~prohibit~~prohibit the use of ~~said~~ trust funds to purchase certificates of deposit or U.S. treasury notes.
- (E) Ohio sires stakes monies will be kept in a separate fund which will be used exclusively for payment of purse money to entitled parties in Ohio sires stake fund races.

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3769-2-11.1 **Claims upon a surety bond.**

- (A) The racing commission ~~shall be~~is the sole decision maker in determining if funds are due an aggrieved party as defined in rule 3769-2-11 of the Administrative Code. The racing commission may give the executive secretary authority to make this decision pending ratification at the next regularly scheduled or special meeting.
- (B) The racing commission ~~shall~~will gather any information it believes is necessary to determine (1) who an aggrieved party is; (2) how much money is owed the aggrieved party; and (3) why the money is owed to the aggrieved party.
- (C) Once the racing commission determines how much money, if any, an aggrieved party is due, the racing commission may contact the permit holder in writing concerning the aggrieved party. The permit holder may be given ten business days to make the aggrieved party whole. Continuances may be granted at the discretion of the racing commission.
- (D) If the permit holder fails to make the aggrieved party whole in the time frame prescribed by the racing commission, the racing commission may submit a claim on the bond.
- (E) The racing commission ~~shall not~~ cannot submit a claim on a bond that expired more than twelve months earlier.

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3769-2-11.2

Financial ability of permit holder.

- (A) If, at any time regardless of the filing of a bankruptcy petition, a permit holder finds themselves in a situation where they are unable to make any payments or fulfill any financial obligations that are ~~required~~mandated under the permit, including but not limited to payments due to an aggrieved party as defined under paragraph (C) of rule 3769-2-11 of the Administrative Code, the permit holder ~~shall~~will immediately notify the racing commission in writing of its situation.
- (B) If, in the racing commission's discretion the permit holder lacks the financial ability to continue its day to day operations; threatens the integrity of pari-mutuel wagering; threatens the health, safety or welfare of the public, horse racing participants or other participants; and/or puts the wagering public at risk, the racing commission ~~shall~~will:
- (1) Immediately suspend the permit holder's permit until such time that the racing commission determines that the permit holder has the financial ability to continue its ~~day-to-day~~day-to-day operations; or
 - (2) ~~Require the~~The permit holder has to:
 - (a) Have a person approved in advance by the racing commission sign a guarantee of performance; or
 - (b) Set up a trust account, under terms and conditions as approved by the racing commission, for the benefit of the Ohio state racing commission for the benefit of aggrieved parties as defined by paragraph (C) of rule 3769-2-11 of the Administrative Code. The amount in such account ~~shall~~be determined by the racing commission; or
 - (c) Obtain a bond in an amount prescribed by the racing commission, in favor of the Ohio state racing commission as obligee, for the use and benefit of all aggrieved parties as defined by paragraph (C) of rule 3769-2-11 of the Administrative Code. This bond may be in addition to any bond provided in accordance with paragraph (B) of rule 3769-2-11 of the Administrative Code.
- (C) The filing of a bankruptcy petition by a permit holder does not relieve the permit holder of any of the minimum requirements necessary to be issued and hold a permit to conduct pari-mutuel horse racing if, in the racing commission's discretion, it threatens the integrity of pari-mutuel wagering; threatens the health, safety, or welfare of the

public, horse racing participants or other participants; and/or puts the wagering public at risk.

- (D) For purposes of determining the amount payable on any bond, should the racing commission believe it may make a claim upon a bond, the racing commission ~~shall will~~ notify the permit holder that ~~it shall the permit holder will~~ immediately, but no more than ten days from the date of the notice, provide the racing commission with the following information in writing:
- (1) The amount of any unpaid salaries or wages earned or due to the permit holder's employees that are licensed by the commission. The permit holder ~~must~~has to provide a schedule detailing all unpaid wages and salaries by employee, by time period.
 - (2) The amount of any purse money that is unpaid or owed to any licensed owners by the permit holder. The permit holder ~~must~~has to provide a schedule detailing such unpaid amounts by owner, by race, and by date.
 - (3) The amount of any entry fees, nominating fees, eligibility fees, or sustaining fees paid by licensed owners that the permit holder has or should have in its possession. The permit holder ~~must~~has to provide a schedule detailing such amounts by owner.
 - (4) The amounts owed by the permit holder to licensed owners by the horsemen's bookkeeper for horses claimed. The permit holder ~~must~~has to provide a schedule detailing such amounts by owner.
 - (5) The amount the permit holder owes to the holders of winning uncashed pari-mutuel tickets. The permit holder ~~must~~has to provide a schedule detailing these unpaid amounts, listed by date and race.
 - (6) The amount of outstanding fees that the permit holder owes to jockeys and/or drivers. The permit holder ~~must~~has to provide a schedule detailing such amounts by jockey and/or driver.
 - (7) All horsemen's bookkeeper funds, including purse money, should be held as separate ~~interest-bearing~~interest-bearing trust funds. The permit holder ~~must~~has to verify that this has been done, that the amounts have not been commingled with other funds, and that the accounts holding such funds will not be subjected to the permit holder's claims of creditors. The permit holder ~~must~~will attach a detailed schedule of all such funds held, and the amounts, by the permit holder on the date prior to the date of filing of the bankruptcy petition, as well as any other amounts that were deposited into those funds after ~~such~~that date.

- (8) All Ohio sires stakes monies will be kept in a separate fund which will be used exclusively for payment of purse money to entitled parties in Ohio sires stake fund races. The permit holder has to verify that this has been done, that the amounts have not been commingled with other funds, and the accounts holding such funds will not be subjected to the permit holder's claims of creditors. The permit holder has to attach a detailed schedule of all such funds held, and the amounts by the permit holder on the date prior to the date of bankruptcy, as well as any other amounts that were deposited into those funds after that date.
- ~~(8)~~(9) The amounts of the "Combined Simulcast Horse Racing Purse Fund" due under section 3769.089 of the Revised Code and payments due to the collection and settlement agent under section 3769.0810 of the Revised Code. The permit holder ~~must~~has to provide a detailed schedule.
- ~~(9)~~(10) The amounts due and unpaid to any government authority in Ohio, including, but not limited to, state and local income taxes; commercial activity taxes; sales taxes; use taxes; excise taxes; horse racing taxes; employee withholding for federal, state, and local taxes; net profits taxes; school district income taxes; property taxes; workers' compensations premiums; unemployment compensations; etc. The permit holder ~~must~~has to attach a schedule detailing such liabilities by jurisdiction and time period.
- ~~(10)~~(11) A detailed list of any other amounts that are due or owed by the permit holder to any other aggrieved party as defined by rule 3769-2-11 of the Administrative Code.
- ~~(11)~~(12) A schedule detailing each bank account held in the name of or on behalf of the permit holder. This ~~shall~~will include the name of the bank, the account number, the balance in the account as of the day of filing of the bankruptcy petition, and a detailed description of what the account is used for.
- ~~(12)~~(13) Any other information the racing commission believes is necessary.
- (E) The failure of the permit holder to provide the information listed in paragraph (D) of this rule in the prescribed time may result in an immediate suspension of the permit holder's permits. The permit ~~shall~~is to remain suspended until the permit holder has satisfied the racing commission that it should re-open and continue to operate and that the health, safety, or welfare of the public, horse racing participants, or other participants will be protected; and/or the integrity of pari-mutuel wagering and the wagering public will be protected.
- (F) Upon receipt of the information requested in paragraph (D) of this rule, the permit holder and any necessary representatives ~~shall~~will appear before the racing commission

no later than the racing commission's next regularly scheduled monthly meeting. The racing commission may set a special meeting for the permit holder and its representatives to appear at.

(G) If the racing commission is concerned that the financial condition of the permit holder threatens the integrity of pari-mutuel wagering; threatens the health, safety, or welfare of the public, horse racing participants or other participants; and/or puts the wagering public at risk, then the failure of the permit holder to appear before the racing commission as directed in paragraph (F) of this rule may result in an immediate suspension of the permit holder's permit. The permit ~~shall~~will remain suspended until the permit holder has satisfied the racing commission that it should re-open and continue to operate.

(H) All of the above mentioned immediate suspensions may occur without a hearing.

(1) The racing commission ~~shall~~will issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If the permit holder subject to the immediate suspension requests an adjudicatory hearing by the racing commission, the date set for the hearing ~~shall~~will be within fifteen days, but not earlier than seven days, after the permit holder requests the hearing, unless otherwise agreed to by both the racing commission and the permit holder.

(2) Any immediate suspension imposed under the division ~~shall remain~~remains in effect, unless reversed on appeal, until a final adjudicative order issued by the racing commission becomes effective. The racing commission ~~shall~~will issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days ~~shall result~~results in dissolution of the summary suspension order but ~~shall~~does not invalidate any subsequent, final adjudicative order.

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3769-2-12

Permits, agriculture societies, totalizator licenses.

- (A) The commission may grant a permit to county or independent agricultural society , as defined by law, to conduct a parimutuel horse racing meeting during its annual fair, provided the dates of the fair have been approved by the Ohio director of agriculture.
- (B) An application for a permit ~~must~~will be made by each agricultural society on a form as the commission ~~shall prescribe~~prescribes. The agricultural society ~~shall be~~is charged with the same duties and responsibilities as are commercial permit holders with respect to observance and enforcement of the Revised Code, Horse Racing Act, the rules of racing, and any orders issued by the commission; under penalties provided for in rule 3769-2-99 of the Administrative Code.
- (C) No totalizator company may conduct parimutuel wagering during a fair until it has been licensed by the commission. Applications for licenses ~~shall~~will be made on a form prepared by the commission, and ~~shall~~will be accompanied by the ~~required~~required fee contained in rule 3769-2-24 of the Administrative Code. ~~Said~~The application ~~shall~~will include, but ~~shall~~is not be limited to; the following:
- (1) A copy of the contract between each county or independent agricultural society and the totalizator company that will conduct parimutuel wagering during the fair.
 - (2) A balance sheet setting forth the applicant's current net worth verified in writing under oath by the chief operating officer of the applicant.
 - (3) The wagering formats available for each race.
 - (4) A statement describing in detail the type of totalizator equipment to be used in conducting parimutuel wagering at the fair. This statement ~~must~~has to include a description of the program capabilities of the equipment and its ability to generate any necessary calculations ~~as required by~~referred to in Chapter 3769-3 of the Administrative Code.
 - (5) Any such other information as the commission may ~~require~~request.

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3769-2-13

Place, time and number of races.

The permit ~~shall~~will set forth the name of the permit holder, the place where the races or race meetings are to be held, the days and time during which racing may be conducted by said permit holder, and the number of parimutuel wagering races to be held daily, not to exceed eleven. Any such permit issued ~~shall~~is not be transferable or assignable. Upon application the commission may grant special permission for parimutuel wagering races in excess of eleven per day, and may grant special permission for race cards lost because of inclement weather or other emergencies to be made up on subsequent dates at the rate of one race per date or any additional dates within the limitations of section 3769.07 of the Revised Code. The permit holder ~~must~~has to immediately notify the commission of cancellations of race cards or races for any reason. This rule applies to commercial tracks and not to county or independent fairs.

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3769-2-14

Permit holders enforcement obligations.

- (A) It ~~shall be~~is the duty of each and every permit holder ~~and as well as~~as the officers, directors, officials, and employees of ~~said~~the permit holder to observe and enforce the provisions of the Ohio Revised Code, the rules of racing and such orders and regulations as may from time to time be issued by the commission. Every permit to hold a race meeting is granted upon the express condition that the permit holder ~~therein~~ named accepts and agrees to observe and enforce the provisions of the Ohio Revised Code, the rules of racing, and such orders and regulations as may from time to time be issued by the commission.
- (B) The permit holder ~~shall~~will employ a person to only one official position. In case of an emergency a person may hold more than one official position if approved by the commission. The commission's approval will not last for more than thirty days. For the purposes of this rule, the following are considered an official: stewards, judges, race secretary, assistant race secretary, starter, assistant starters, state veterinarian, track veterinarian, veterinarian assistants, identifier, clerk of scales, jockey room custodian, clerk of the course, paddock judge, placing judges, mutuel manger, outrider, director of security, blacksmith, and valet.

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3769-2-15

Post permit.

Every permit holder ~~shall~~will post the permit granted by the commission in a prominent place; in the principal office at the race track during the ~~horse racing~~horseracing meeting; ~~the permit granted by the commission. Such~~The permit shall be available to be observed at all reasonable times to any authorized person requesting to see it.

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3769-2-16

Security.

- (A) A permit holder ~~shall~~will ensure that the public areas of the permit grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.
- (B) A permit holder conducting a race meeting ~~shall~~will maintain security controls over its premises. Security controls are subject to the approval of the commission.
- (C) On request by the commission, a permit holder ~~shall~~will provide a list of the security personnel, including the name, qualifications, training, duties, duty station, and area supervised by each ~~such~~ person.

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3769-2-17

Must furnish records.

- (A) Every permit holder ~~shall~~will, upon demand in writing by the commission, furnish the commission a full and complete statement of receipts, expenditures, attendance, and such other information as the commission ~~shall require, might request~~ with respect to any meeting, or with respect to any accounting period specified by the commission.
- (B) Every commercial permit holder which does not own the real property at the place where a race meeting is to be conducted, at the time the application is filed for a permit, ~~shall~~will file a copy of the current lease with the commission.
- (C) The owner of the real estate ~~shall~~will, at the time the application for a racing permit is filed by the lessee, provide the following to the commission:
- (1) A current financial statement showing assets and liabilities;
 - (2) Its latest operating statement showing its income and expenses relating to the real estate;
 - (3) A list containing the names and addresses, and occupations of all officers, directors, owners, shareholders, or partners (both general and limited). In case of a corporation whose stock is publicly traded, this information need only be supplied as to all officers and directors, and those stockholders owning or controlling ten per cent or more of the stock of the corporation;
 - (4) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the stock of the corporate owner of the real estate, ~~such~~the corporation or partnership ~~shall be required~~has to file the same information.

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3769-2-18

Applications for licenses.

(A) Applications for licenses or reciprocal validations ~~shall~~will be made on a form prepared by the commission. The form ~~shall~~will be available on request and when submitted, fully completed, ~~shall~~will be accompanied by the required fee as stipulated in rule 3769-2-24 of the Administrative Code. No one ~~shall~~will be employed in any capacity unless they have been licensed. Each ~~such~~ license, unless revoked or suspended for cause, ~~shall be~~is for the period of one year from January first ~~through December thirty-first~~ of the year in which ~~the same shall be~~the license was issued; except that, the commission may, through the state steward or judge, cause a temporary license to be issued which will be valid for entering and racing pending administrative processing and final action by the commission on such license application. In no event ~~shall such~~will any temporary license be considered valid later than thirty days after its issuance.

During the racing season, all applications ~~shall have to~~will be submitted to the steward or judge for approval, except that all employees of the permit holder and concessions ~~must have to~~will have their applications approved by their department head prior to submittal to the steward or judge. When approved by the stewards or judges and signed by at least one of them, the application ~~shall~~will be forwarded to the commission representative for licensing. If the stewards or judges reject or table any applications, they ~~shall~~will report ~~such these~~these actions to the commission.

(1) All applications for licenses ~~shall~~will carry the full name and permanent address of the applicant with street or rural route number and zip code. No temporary address of any kind will be acceptable, unless the applicant ~~shall affirm~~affirms that they have no permanent address.

(2) If a licensee changes ~~his/her~~their address or telephone number at any time during the licensing year, it ~~shall be~~is the licensee's responsibility to notify the ohio state racing commission of ~~said any~~any change within fifteen days of the change.

(3) Any person who violates paragraph (A)(1) of this rule ~~shall be~~is subject to the penalties as provided in rule 3769-2-99 of the administrative code.

(B) A corporation, association, partnership or a trust when it files an application for a license ~~shall~~will also provide the following:

(1) A list of all officers, directors and stockholders or partners (both general and limited) with their names, addresses and occupations. If the stock is publicly

traded, then only the names, addresses and occupations of the officers, directors and owners of ten per cent or more of the stock need be given;

- (2) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the licensee, it ~~shall~~will file the same information. If the licensee is a concessionaire of the permit holder, it ~~shall~~will file a copy of its current lease or concession agreement.

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3769-2-19

Fingerprinting.

- (A) Applicants for licenses issued by the commission ~~shall~~are to submit their fingerprints to the commission once every five years. It ~~shall be~~is the responsibility of commercial permit holders to have fingerprints taken of all such persons for submission to the commission prior to such persons being approved for admission to the racing premises. Persons not appearing at racing premises ~~shall~~will submit their fingerprints in such manner as the commission ~~shall prescribe~~prescribes. ~~Said fingerprints shall~~Fingerprints will be taken by competent and qualified personnel approved by the commission; and submitted on forms prescribed by the commission.
- (B) The commission may forward to the federal bureau of investigation or any other agency for processing, all fingerprints submitted by license applicants in compliance with section 3769.03 of the Revised Code. The commission ~~shall~~will maintain a file of such fingerprints.
- (C) This rule ~~shall~~does not apply to thoroughbred, ~~or~~ quarter horse, ~~or~~ standardbred owners who are currently and properly licensed as a thoroughbred, ~~or~~ quarter horse, ~~or~~ standardbred owner in any other state or racing jurisdiction which has reciprocity with the Ohio state racing commission, provided ~~said~~the other state or racing jurisdiction ~~requires the fingerprinting of~~fingerprints owners for the purpose of a criminal record check at least once every three years.

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3769-2-20

Written testimony.

The commission may ~~require~~request any person making application for the first time to secure written testimony from two reputable persons that ~~he is~~they are personally known to the applicant, and that the applicant is of good reputation and is familiar with the duties of the position ~~he or she seeks~~they seek.

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3769-2-21

License restrictions, limitations and conditions.

- (A) The application for an owner's license by a person under the age of eighteen must be accompanied by a notarized statement from their parent or guardian indicating the parent or guardian assumes responsibility for meeting all financial, contractual, or other obligations relating to all racing activities of the applicant.~~An applicant for an apprentice jockey license, an assistant trainer license, a jockey license, or a trainer license must be at least eighteen years of age or older.~~
- (B) The commission or its designee, for cause, may restrict, limit, or place conditions on any license, including probationary status.~~An applicant for an exercise rider license must be at least sixteen years of age, and if under eighteen years of age, must have written consent of a parent or guardian. Before such license is granted, the commission, or a board of stewards acting in its behalf, shall ascertain that the applicant has suitable qualifications and aptitude to hold an exercise rider's license.~~
- (C) All other applicants for a license have to be sixteen years of age or older; provided, however, the commission may grant a license to a person younger than sixteen years of age who is working on a permit holder's premises for their parents or legal guardian only. Any license application for a person under the age of sixteen has to be signed by their parent or legal guardian in the presence of one or more of the track stewards or judges.
- ~~(C)(D) Thoroughbred All other applicants for a license must be sixteen years of age or older; provided, however, the commission may grant a license to a person younger than sixteen years of age who is working on a permit holder's premises for his or her parents, or legal guardian, only. Any such license application for a person under the age of sixteen must be signed by his or her parent or legal guardian in the presence of one or more of the track stewards.~~
- (1) An applicant for an apprentice jockey license, an assistant trainer license, a jockey license, or a trainer license has to be at least eighteen years of age or older.
- (2) An applicant for an exercise rider license has to be at least sixteen years of age, and if under eighteen years of age, has to have written consent of a parent or guardian. Before any license is granted, the commission or a board of stewards acting in its behalf will ascertain that the applicant has suitable qualifications and aptitude to hold an exercise rider's license.
- (E) All other applicants for a license have to be sixteen years of age or older; however, the commission may grant a license to a person younger than sixteen years of age who is

working on a permit holder's premises for their parents or legal guardian only. Any license application for a person under the age of sixteen has to be signed by their parent or legal guardian in the presence of one or more of the track stewards or judges.

- ~~(D) The application for an owner's license by a person under the age of eighteen must be accompanied by a notarized statement from their parent or guardian indicating said parent or guardian assumes responsibility for meeting all financial, contractual or other obligations relating to all racing activities of said applicant.~~
- ~~(E) The commission or its designee, for cause, may restrict, limit, or place conditions on any license, including probationary status.~~

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3769-2-23

**License qualifications for trainer, ~~and assistant trainer, second~~
trainer, and horseshoer.**

(A) ~~Thoroughbred~~ ~~Each trainer, or assistant trainer or horseshoer desiring a license shall make application for same in writing on a form provided by the commission. The assistant trainer shall have the same qualifications as a trainer. Upon satisfactory completion of this application form, all trainer or assistant trainer applicants must provide written proof they have worked as a groom or in some other type of apprentice capacity for a minimum of two years prior to applying for a trainer or assistant trainer license. After providing proof of the required two years of groom or apprentice training and after having satisfactorily completed the application form, each trainer and assistant trainer shall take the examinations and/or tests required by the Ohio state racing commission. Satisfactory passing of the required test shall qualify the applicant to be licensed.~~

(1) Each trainer, assistant trainer, or horseshoer desiring a license will make application for a license in writing on a form provided by the commission. The assistant trainer will have the same qualifications as a trainer. Upon satisfactory completion of this application form, all trainer or assistant trainer applicants have to provide written proof they have worked as a groom or in some other type of apprentice capacity for a minimum of two years prior to applying for a trainer or assistant trainer license. After providing proof of the necessary two years of groom or apprentice training and after having satisfactorily completed the application form, each trainer and assistant trainer will take the examinations and/or tests needed by the Ohio state racing commission. Satisfactory passing of the test qualifies the applicant to be licensed.

(2) No trainer or assistant trainer license will be issued to an applicant until the applicant is designated by the owner or trainer as the trainer of a horse eligible to race in a parimutuel race in Ohio.

(3) The applicant will state their full name, address, age, and whether or not they are at the time of application under suspension, set down, ruled off, or are otherwise ineligible for licensing in any jurisdiction. The applicant will also set forth in the application any other information or data concerning their past record, experience, and qualifications as may be needed by the commission. The applicant will sign the application and may be requested to affirm the truth of all statements.

(4) An applicant for a trainer or assistant trainer license may be issued an Ohio license without complying with paragraph (A) of this rule provided they have held a

valid license in the same category from another state or other racing jurisdiction which has competency testing or similar qualifications, or from another state or other racing jurisdiction where the applicant obtains a written statement of their competence from a state steward in that state or jurisdiction.

- (5) A licensed assistant trainer assumes the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer is jointly responsible with their assistant trainer involving a racing matter.
- (6) An applicant for a horseshoer license will provide written proof they have completed an apprenticeship lasting a minimum of one year and pass any test or examination needed by the commission. These may be waived by the commission, provided the applicant has held a valid license issued in any jurisdiction that has competency testing or similar qualifications for horseshoer applicants; or obtained from a state steward in another jurisdiction a written statement certifying the applicant's competence as a horseshoer.
- (7) Each trainer, assistant trainer, or horseshoer has to provide workers' compensation coverage in accordance with Ohio law for all of their employees who are connected with racing. Upon request of the commission the applicant for these licenses have to provide satisfactory proof of coverage.

(B) Standardbred

- (1) Each driver-trainer, trainer without driving rights, or horseshoer desiring a license will make application for a license in writing on a form provided by the commission. All applicants will state their full name, address, age, and whether or not they, at time of their application are under suspension, revoked, ruled off or otherwise debarred from training or driving in any jurisdiction. They will also set forth in their application other information or data concerning their past record, their experience and qualifications, as may be needed by the commission. All applicants have to sign the application and may have to affirm the truth of all statements.
- (2) No trainer or assistant trainer license will be issued to an applicant until the applicant is designated by the owner or trainer as the trainer or assistant trainer of a horse eligible and entered to race in a parimutuel race in Ohio.
- (3) A licensed second trainer assumes the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer is jointly responsible with their assistants for all acts and omissions of their assistant and involving a racing matter.

- (4) Any person who trains horses solely owned by themselves or their spouse who engages catch drivers to drive their horses may make application for a license as a trainer without driving rights after passing any test the presiding judge may need. This applicant may perform all duties of a licensed driver-trainer except drive in races and is the absolute insurer of and responsible for the condition of the horses entered in a race as outlined in rule 3769-18-02 of the Administrative Code.
- (5) An applicant for a horseshoer's license who has not been previously licensed in this state has to have a written statement of two reputable persons to the effect that the applicant is personally known to them, that they are a person of good reputation, and capable of performance of the vocation they seek to follow. The applicant will be tested by a board consisting of a veterinarian, trainer, and a licensed horseshoer, or other qualified person appointed by the board of judges.
- (6) An applicant for a horseshoer license may be issued an Ohio license without being tested in the manner provided in paragraph (B)(5) of this rule, providing he/she has a current valid horseshoer license from another state or racing jurisdiction, which has competency testing or similar qualifications for horseshoer applicants in that state, or from which racing jurisdiction the applicant obtains a written statement of his/her competence from a presiding judge in that state or jurisdiction.
- (7) Each trainer, assistant trainer, or horseshoer has to provide workers' compensation coverage in accordance with Ohio law for all of their employees who are connected with racing. Upon request of the commission the applicant for these licenses has to provide satisfactory proof of coverage.
- ~~(B) No trainer or assistant trainer license will be issued to an applicant until said applicant is designated by the owner or trainer as the trainer of a horse eligible to race in a parimutuel race in Ohio.~~
- ~~(C) The applicant shall state his or her full name and address, age, and whether or not he or she is, at time of application, under suspension, set down or ruled off or otherwise ineligible for licensing in any jurisdiction. The applicant shall also set forth in said application such other information or data concerning his or her past record, experience and qualifications as may be required by the commission. The applicant shall sign the application and may be required to affirm the truth of all statements therein before a notary public.~~
- ~~(D) An applicant for a trainer or assistant trainer license may be issued an Ohio license without complying with paragraph (A) of this rule provided, he or she had held a valid license in the same category from another state or other racing jurisdiction, which~~

~~requires competency testing or similar qualifications, or from which state or other racing jurisdiction the applicant obtains a written statement of his or her competence from a state steward in said state or jurisdiction.~~

~~(E) A licensed assistant trainer shall assume the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer shall be jointly responsible with his or her assistant trainer involving a racing matter.~~

~~(F) An applicant for a horseshoer license shall provide written proof he or she had completed an apprenticeship lasting a minimum of one year and pass any test or examination required by the commission. These requirements may be waived by the commission, provided the applicant has held a valid license issued in any jurisdiction that requires competency testing or similar qualifications for horseshoer applicants; or obtained from a state steward in another jurisdiction a written statement certifying the applicant's competence as a horseshoer.~~

~~(G) Each trainer, assistant trainer, or horseshoer must provide workers' compensation coverage in accordance with Ohio law for all of his or her employees who are connected with racing and upon request of the commission the applicant for such licenses must provide satisfactory proof of such coverage.~~

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*** DRAFT - NOT YET FILED ***

3769-2-24

License fees.

(A) All persons in the list below ~~shall~~will procure an annual license from the commission, and the fees ~~shall be~~are as follows:

<u>License Type</u>	<u>Cost in Dollars</u>
<u>Announcer</u>	<u>50</u>
<u>Apprentice Jockey</u>	<u>50</u>
<u>Assistant Starter</u>	<u>50</u>
<u>Assistant Trainer</u>	<u>50</u>
<u>Associate Judge</u>	<u>50</u>
<u>Association Steward</u>	<u>50</u>
<u>Authorized Agent</u>	<u>50</u>
<u>Bookkeeper</u>	<u>50</u>
<u>Breeder</u>	<u>10</u>
<u>Chief of Security</u>	<u>50</u>
<u>Clerical</u>	<u>15</u>
<u>Clerk of Course</u>	<u>50</u>
<u>Clerk of Scales</u>	<u>50</u>
<u>Clocker</u>	<u>15</u>
<u>Concession Employee</u>	<u>15</u>
<u>Concession Manager</u>	<u>50</u>
<u>Doctor</u>	<u>50</u>
<u>Driver</u>	<u>50</u>
<u>Driver/Trainer</u>	<u>50</u>

<u>Duplicate license</u>	<u>15</u>
<u>Eligibility to Claim</u>	<u>25</u>
<u>Exercise Rider</u>	<u>15</u>
<u>General Manager (other management positions also)</u>	<u>100</u>
<u>Groom</u>	<u>10</u>
<u>Horseshoer</u>	<u>50</u>
<u>Identifier</u>	<u>50</u>
<u>Jockey</u>	<u>50</u>
<u>Jockey Agent</u>	<u>50</u>
<u>Jockey Room Custodian</u>	<u>50</u>
<u>Maintenance</u>	<u>15</u>
<u>Medical and First Aid</u>	<u>15</u>
<u>Mutuel Employee</u>	<u>15</u>
<u>Mutuel Manager</u>	<u>50</u>
<u>Outrider</u>	<u>15</u>
<u>Owner</u>	<u>50</u>
<u>Paddock Judge</u>	<u>50</u>
<u>Patrol Judge</u>	<u>50</u>
<u>Photographer</u>	<u>50</u>
<u>Placing Judge</u>	<u>50</u>
<u>Pony Person</u>	<u>15</u>
<u>Presiding Judge</u>	<u>100</u>
<u>Racing Secretary</u>	<u>100</u>

<u>Security</u>	<u>15</u>
<u>Special A (Professional)</u>	<u>100</u>
<u>Special B (Technical)</u>	<u>50</u>
<u>Special C (Clerical/miscellaneous)</u>	<u>15</u>
<u>Special D</u>	<u>10</u>
<u>Stable Name</u>	<u>25</u>
<u>Starter</u>	<u>50</u>
<u>State Steward</u>	<u>100</u>
<u>Supply Sales (Employee)</u>	<u>15</u>
<u>Supply Sales (Owner)</u>	<u>100</u>
<u>Timer</u>	<u>15</u>
<u>Trainer</u>	<u>50</u>
<u>Valet</u>	<u>15</u>
<u>Veterinarian</u>	<u>100</u>
<u>Veterinarian Assistant</u>	<u>15</u>
<u>Video</u>	<u>1</u>

Admission employee	\$ 15.00
Announcer (race or track)	50.00
Apprentice jockey	50.00
Assistant trainer	50.00
Authorized agent	50.00
Assistant racing secretary	50.00
Assistant starter	50.00

Chief of security	50.00
Clerical	15.00
Clerk of Scales	50.00
Concession employee	15.00
Concession manager	50.00
Doctor	50.00
Duplicate	15.00
Eligibility to claim	25.00
Exercise rider	15.00
General manager (other management positions)	100.00
Groom	10.00
Horsemen's bookkeeper	50.00
Horseshoer	50.00
Identifier	50.00
Jockey	50.00
Jockey agent	50.00
Jockey room custodian	15.00
Maintenance	15.00
Medical and first aid	15.00
Mutuel employee	15.00
Mutuel manager	50.00
Outrider	15.00
Owner	50.00
Owner's reciprocal validation	50.00
Paddock Judge	50.00

Parking lot employee	15.00
Partnership	25.00
Patrol judge	50.00
Photographer	50.00
Placing judge	50.00

Pony person	15.00
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Porter	15.00
Racing secretary	100.00
Security	15.00
Stable name (primary)	50.00
Stable name (secondary)	50.00
Starter	50.00
State steward	100.00
Steward	50.00
Supply sales (owner)	100.00
Supply salesman	15.00
Telephone operator	15.00
Timer	15.00
Trainer	50.00
Valet	15.00
Veterinarian	100.00
Veterinarian's assistant	15.00
Special A (professional)	100.00
Special B (technical)	50.00
Special C (clerical/miscellaneous)	15.00

(B) Totalizator companies

- (1) No corporation, partnership, association, trust, sole proprietorship, or any other entity that is responsible for the equipment and software used in connection with the conducting and/or servicing of parimutuel wagering at a racetrack or other authorized pari-mutuel wagering facility may conduct said pari-mutuel wagering until it has been licensed by the commission. Applications for annual licenses ~~shall~~will be made on a form prepared by the commission, which ~~shall be~~are available upon request; and when fully completed and submitted, ~~fully completed, shall~~will be accompanied by the required fee of one thousand dollars. ~~Said~~This application ~~shall~~will include, but ~~shall~~is not be limited to, the following:
 - (a) A copy of the contract (excluding information relative to proprietary trade secret information) between each racetrack or other authorized pari-mutuel wagering facility and the corporation, partnership, association, trust, sole proprietorship, or any other entity that is responsible for the conducting of an/or servicing of pari-mutuel wagering during the racing meeting or at the authorizing pari-mutuel wagering facility;
 - (b) Certified financial statement setting forth the applicant's current net worth, verified in writing under oath by the chief operating officer of the applicant;
 - (c) A detailed statement of the wagering formats available for each race;
 - (d) A statement describing in detail the type of totalizator equipment to be used in the conducting of pari-mutuel wagering at the racetrack or at the authorized pari-mutuel wagering facility. This statement ~~must include,~~includes, but is not limited to, a description of the program capabilities of the equipment and its ability to generate any necessary calculations, its ability to interface where applicable, as well as a procedures manual which specifically identifies a reasonable audit procedure;
 - (e) Any such other information as the commission may ~~require~~request.
- (2) Any totalizator company which is involved in the computerized calculation of mutuel payoffs and/or mutuel totals for any Ohio permit holder ~~must~~has to have the computer equipment performing such work physically located within the state of Ohio except as provided in paragraph (B)(5) of this rule. Such computer equipment may be located at a race-track in Ohio, at a computer hub or a regional computer center or any other facility located in the state of Ohio and

approved by the Ohio state racing commission. This portion of this rule does not necessarily apply when a permit holder in Ohio is receiving a simulcast from a race-track located outside the state of Ohio.

- (3) All persons employed in or by any totalizator company or facility, as described in paragraph (B)(2) of this rule, ~~must~~have to be individually licensed by the Ohio state racing commission. The license fee for any totalizator management supervisory employee ~~shall be~~is one hundred dollars and the license fee for all other employees ~~shall be~~is fifty dollars.
- (4) This rule ~~shall~~does not apply to restricted totalizator companies which work only county and/or independent fairs.
- (5) A totalizator company which is involved in the computerized calculation of mutuel payoffs and/or mutuel totals for any Ohio permit holder may have the computer equipment performing such work physically located outside the state of Ohio only for an Ohio permit holder whose ownership has racing facilities outside of the state of Ohio and who utilize the same totalizator company. A totalizator company who maintains their computer equipment outside of the state of Ohio ~~shall~~will timely provide the Ohio state racing commission with all data that is ~~required~~mandated to be reported by a totalizator company who maintains their computer equipment in the state of Ohio. ~~All persons employed by any out-of-state totalizator company or facility doing work for an Ohio permit holder must be individually licensed by the Ohio state racing commission. The license fee for any totalizator management supervisory employee shall be one hundred dollars and the license fee for all other employees shall be fifty dollars.~~
- (C) Any breeder who wishes to participate in the Ohio thoroughbred race fund program as defined in section 3769.083 of the Revised Code ~~must~~has to receive a breeders license in the amount of ten dollars. Breeders may ~~be required~~have to submit an additional amount to cover the cost of fingerprinting if the executive director determines the breeder should be ~~fingerprinting~~fingerprinted.
- (D) Restricted license, county fairs:

Totalizator	\$100.00
All quarter horse participants	10.00
Groom	5.00
Mutuel employees	10.00

Owner	10.00
Racing official	10.00
Special D (miscellaneous)	10.00

<u>License Type</u>	<u>Cost in Dollars</u>
<u>Driver/Trainer</u>	<u>10</u>
<u>Groom</u>	<u>5</u>
<u>Mutuel Employee</u>	<u>10</u>
<u>Owner</u>	<u>10</u>
<u>Quarterhorse Participants</u>	<u>10</u>
<u>Racing Official</u>	<u>10</u>
<u>Special D (miscellaneous)</u>	<u>10</u>
<u>Totalizator</u>	<u>100</u>

- (E) As part of the licensing fee, and in addition to those amounts listed in paragraphs (A) and (B) of this rule, all applicants ~~shall~~will be charged the necessary fees, to cover all fingerprinting costs once every five years.
- (F) Any person who has lost ~~his or her~~their license ~~shall be required~~has to acquire a duplicate license from the commission for a fee of fifteen dollars. Should the original license be found, the licensee ~~shall~~will return the duplicate license to the stewards, judges, or to the commission.

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3769-2-25

One license requirement.

Except for owners, trainers or other classifications where the breed of horse could have a direct bearing on a person's qualifications for a license, only one license is ~~required~~ needed for licensees who are performing the same function at thoroughbred, harness, or quarterhorse meetings.

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3769-2-26

License refused, revoked, suspended.

- (A) The commission may refuse to grant, ~~may~~ revoke, ~~or may~~ suspend, ~~any license~~, or may otherwise penalize any license; under the provisions of rule 3769-2-99 of the Administrative Code, a person to whom any of the following apply:
- (1) The applicant or licensee has been convicted of a felony within the preceding ten years;
 - (2) The applicant or licensee has had a license of the legally constituted racing authority of any state, province, or nation denied, suspended, or revoked for cause within the preceding five years;
 - (3) The applicant or licensee is presently under suspension for cause of any license by the legally constituted racing authority of any state, province, or nation;
 - (4) The applicant or licensee has violated or attempted to violate any provision of Chapter 3769. of the Revised Code or the Ohio rules of racing;
 - (5) The applicant or licensee has perpetrated or attempted to perpetrate any fraud or misrepresentation in connection with the racing or breeding of horses;
 - (6) The applicant or licensee has demonstrated financial irresponsibility by accumulating unpaid obligations, defaulting in obligations, or issuing drafts or checks that are dishonored or payment refused;
 - (7) The applicant or licensee has made any material misrepresentation on ~~his or her~~their application for license;
 - (8) The applicant or licensee has engaged in bookmaking, touting, or similar pursuits, or has consorted with persons engaged in such activities;
 - (9) The applicant or licensee has abandoned, mistreated, abused, neglected, or engaged in an act of cruelty to a horse;
 - (10) The applicant or licensee has engaged in conduct which is against the best interest of horse racing;
 - (11) The applicant or licensee has failed to comply with a written order or ruling of the commission, ~~or~~ stewards, or judges pertaining to a racing matter;

- (12) The applicant or licensee has failed to answer correctly under oath to the best of ~~his/her~~their knowledge all questions asked by the commission, or its representatives, pertaining to a racing matter;
 - (13) The applicant or licensee fails to return to the permit holder any purse monies, trophies and/or awards paid in error and/or ordered redistributed by the commission;
 - (14) The applicant or licensee ~~shall~~will not have in ~~his/her~~their possession on a permit premises any alcoholic beverage other than a beverage legally sold to them through the permit holder's concession operation;
 - (15) The applicant or licensee in any way interferes with or obstructs any member of the Ohio state racing commission, any commission employee, or any racing official while ~~said~~any commissioner, commission employee, or racing official is performing ~~his/her~~their duties.
- (B) In any proceeding on the question of whether a licensee should be penalized under the provisions of this rule, the commission may consider its own prior formal actions as to the applicant or licensee as indicated by its own records. In cases where the same applicant or licensee has previously had a hearing conducted at ~~his/her~~their request in accordance with Chapter 119. of the Revised Code at which such applicant was present either in person or by counsel, the commission may consider all or any part of the evidence presented at such previous hearing. Where the subsequent proceeding is also a public hearing in accordance with Chapter 119. of the Revised Code, all or any part of the transcript of such previous hearing and all or any part of any relevant evidence received therein may be received in evidence upon submission by either party and considered by the commission as may be appropriate in the determination of the question before it in such subsequent hearing.

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3769-2-27

License required.

- (A) Persons participating or attempting to participate in racing, or any other person employed or working in any other capacity on the race track premises, without first applying for a license, ~~shall~~will be denied admission to the premises, and their failure to apply ~~shall~~can be considered grounds for denial of such license if subsequently applied for.
- (B) Any licensee who employs any unlicensed person in any capacity may be suspended by the judges and may be fined not more than one thousand dollars.
- (C) The commission may fine any permit holder which employs any unlicensed person in any capacity an amount not in excess of the maximum permitted by law.
- (D) Persons participating or attempting to participate in racing after having been denied a license to participate, may be ruled off by the commission.
- (E) Paragraph (A) of this rule ~~shall~~does not apply to sworn law enforcement officers with arrest powers or members of the working press or media assigned to cover events at the race-track.
- (F) Any licensee who signs in a guest or "special permission" person who is not licensed will be held accountable for ~~their guests actions~~the actions of their guest(s).

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3769-2-28

Conduct by licensee.

All persons licensed pursuant to the provisions of rules 3769-2-24 and 3769-2-25 of the Administrative Code ~~shall~~will, while in attendance at racing meetings, conduct themselves in a respectful and temperate manner. With the exception of officers and employees of permit holders whose duties include the entertainment of patrons, and then only to the extent of drinking at public bars with patrons so entertained, no officers or employees of any permit holder ~~shall~~will consume any alcoholic beverages while in attendance during racing hours at racing meetings conducted by such permit holder. Reasonable care ~~shall~~will be exercised by officers of permit holders to assure that these provisions are not violated.

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3769-2-29

Fraudulent or improper practice.

- (A) Any license issued by the commission may, after a proceeding before the commission and in compliance with Chapter 119. of the Revised Code, be revoked for corrupt, fraudulent, or improper practice on the part of the holder; or for conduct detrimental to the best interest of racing.
- (B) Any licensee who by any act intentionally attempts to or actually corruptly affects the outcome of a horse race ~~shall~~will be fined one thousand dollars, ~~and~~ suspended for one year by the stewards or judges, and be referred to the commission for any additional penalty. Upon finding a licensee has committed such an act, the commission may revoke any Ohio state racing commission license(s) held by the licensee for life and/or rule off such licensee from all Ohio race-tracks for life.
- (C) Any licensee who, even though not directly involved in the act, has knowledge of any act which corruptly affects or attempts to corruptly affect the outcome of a horse race and fails to report said knowledge to the stewards or judges ~~shall~~will be fined one thousand dollars, ~~and~~ suspended for one year by the stewards or judges, and be referred to the commission for any additional penalty. Upon finding a licensee has failed to properly report knowledge of such an act, the commission may revoke any Ohio state racing commission license(s) held by the licensee for life and/or rule off such licensee from all Ohio race-tracks for life.

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3769-2-30

Conduct, partnership, corporate.

- (A) In addition to the causes for any penalty to be assessed against a permit holder or licensee elsewhere set out in the rules of the Ohio state racing commission, any permit holder or licensee employed in any capacity at a permit holder's track; may be penalized under the provisions provided for in rule 3769-2-99 of the Administrative Code for any of the following reasons:
- (1) The intentional making of any materially false statement in connection with an application for a permit or license;
 - (2) Conduct by an applicant, licensee, or permit holder in violation of section 2915.06 of the Revised Code.
- (B) If a license issued to any member of a partnership should be revoked by the commission pursuant to the foregoing provisions of this rule, any permit thereafter applied for by such partnership may be denied. If such partnership be a permit holder and the remaining members of such partnership ~~shall fail~~fails to arrange, upon gaining knowledge of such revocation, that such member whose license has been revoked ~~shall thereafter be~~is denied access to the grounds of such permit holder and be prevented from participating thereafter in the conducting of such partnership of the racing meeting for which such permit is issued, the permit issued to such partnership may be penalized under the provisions of rule 3769-2-99 of the Administrative Code.
- (C) If a license issued to the holder of ten per cent of the voting shares of capital stock of a corporate permit holder should be revoked by the commission, such revocation ~~shall constitute~~constitutes grounds for any penalty provided for in rule 3769-2-99 of the Administrative Code to be levied against such corporation during such period as the person whose ~~license shall have~~has been revoked continues to be the holder of ten per cent of the voting shares of capital stock of such corporate permit holder.
- (D) If a license issued to a person who is an officer or director of a corporate permit holder should be revoked, and such permit holder should fail with reasonable promptness to take the corporate action ~~required~~ to remove such person as an officer or director, such revocation ~~shall will~~will constitute grounds for any penalty provided for in rule 3769-2-99 of the Administrative Code, to be levied against the permit holder so long as the person whose license ~~shall have~~has been revoked continues to be an officer or director of such corporation.
- (E) The provisions of the three preceding paragraphs of this rule concerning corporate permit holders and permit holders which are partnerships, ~~shall will~~will cease to be

applicable in every case at such time as the commission may thereafter issue a license to the member of such partnership whose license ~~shall have~~has been revoked, or may thereafter issue a license to the officer, director, or holder of the aforementioned proportion of the voting shares of capital stock of such corporate permit holder whose license ~~shall have~~has been revoked.

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3769-2-32

Financial responsibility action fee.

Any individual, company or other entity who requests the commission to take action against a licensee under the financial responsibility rule ~~shall~~will submit the request in writing indicating the debt owed was ~~horse-race~~horseracing related. The request ~~must~~has to be accompanied by a certified copy of the court judgment against the licensee and a non-returnable fee of one hundred dollars by certified check or money order made payable to the "Ohio State Racing Commission."

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3769-2-33

Unrestricted competitive bidding procedure.

(A) For purposes of section 3769.20 and division (G) of section 3769.08 of the Revised Code, unrestricted competitive bidding procedures, ~~shall~~will include the following:

(1) Notice ~~shall~~will be given to the public that bids are being accepted on the project.

Notice ~~shall~~will be given in at least two daily newspapers of general circulation for a minimum period of seven days, and generally describe the type of work to be performed. Proof of publication ~~shall~~will be provided to the commission with the application for tax abatement.

(2) Identical definite specifications and plans describing the work to be done ~~shall~~has to be presented to all interested bidders. The notice ~~shall~~will give the location and person from whom the specifications can be obtained.

(3) The notice and specifications ~~shall~~will set a deadline before which bids ~~shall~~will be submitted and the date as to when the bids will be opened. The bids ~~shall~~will be submitted sealed and not opened until after the deadline.

(4) No contract ~~shall~~will be awarded to a bidder unless a minimum of three bids have been received before the deadline. If three bids have not been received, notice ~~shall~~will again be given in accordance with paragraph (A) of this rule, the deadline ~~shall~~will be extended, and the bids that have been submitted ~~shall~~will remain sealed until the new deadline has passed and a total of at least three bids have been submitted.

(5) The bids ~~shall~~will be submitted on such forms as the commission shall prescribe. ~~(see appendix A of this rule).~~

(6) The commission may approve the application and find that the contract was let under unrestricted competitive bidding even though the contract was not granted to the lowest responsive and responsible bidder, if the applicant presents sufficient reasons to the commission which justify their choice. ~~Such reasons~~Reasons may include but are not limited to the reputation and reliability of the bidder, the bidder's experience in the type of work involved, and the comparative quality of the different materials offered for the cost, as well as their adaptability.

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3769-2-35

Simulcasting of races.

All simulcast races on which pari mutuel wagering is conducted by a permit holder ~~shall~~will be in accordance with the following conditions and/or restrictions:

- (A) All simulcast races ~~must have to~~ be conducted in full compliance with section 3769.089 of the Revised Code.
- (B) Except by special permission of the commission no permit holder may simulcast more than two races per race day.
- (C) A copy of the simulcast contract, between a permit holder and the originating track, ~~must has to~~ be in the commission office prior to the simulcasting of a race by a permit holder, unless otherwise waived by the commission.
- (D) When simulcasting any race, other than those races on which there is a common pari-mutuel wagering pool that is processed and priced by other than the permit holder's totalizator system, the permit holder ~~must will~~ prominently display the amounts wagered, as well as the wagering odds at the permit holder's track, on each horse participating in the simulcast race(s). After the race has been made official, this display device will also show the pay offs of all wagers accepted on the race. In all races in which there is a common pari-mutuel pool, the permit holder ~~must will~~ prominently display the total amount wagered in the common pool at all tracks.
- (E) When simulcasting a race other than those races on which there is a common pari-mutuel wagering pool that is processed and priced by other than the permit holder's totalizator system, the permit holder ~~must has to~~ provide telephone communications between the stewards' stand, judges' stand, tote room or other approved location at the originating track and the stewards' stand, judges' stand, tote room, or other approved located at the permit holders track. The telephone equipment ~~shall will~~ be used, for a reasonable time, prior to the scheduled post time, of the race to be simulcasted and until the results of the simulcast race are declared official by the stewards or judges at the originating track.
- (F) Wagering on a simulcast race, other than those races on which there is a common pari-mutuel pool that is processed and priced by other than the permit holder's totalizator system, will close and the pari-mutuel machines of the permit holder will be locked by the mutuel manager or designee at the permit holder's track at the time the stewards or judges at the originating track indicate the race has started or at the time the mutuel manager or designee at the permit holder's track see the start of the race on television. On those races on which there is a common pari-mutuel pool that is processed and

priced by other than the permit holder's totalizator system, the permit holder's mutuel manager ~~or his~~their designated representative ~~shall~~will be responsible for closing wagering if the host track fails to close wagering at the permit holder's facility.

- (G) If technical problems cause a loss of either/or the audio or visual signal of a simulcast race, wagering can continue as long as the officials have communication with the host track and wagering is stopped at the proper time when the simulcast race begins.
- (H) The violation of any part of this rule ~~shall~~will subject the person and/or permit holder, ~~in violation of the rule,~~ to the penalties provided in rule 3769-2-99 of the Administrative Code.

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3769-2-36

Satellite facilities.

- (A) Unless a rule is specifically exempt from enforcement on the premises of a satellite facility, all applicable Ohio State Racing Commission rules ~~shall~~ apply to any satellite facility in the same manner such rules apply to a commercial permit holder.
- (B) As used in this rule, "Applicable Ohio State Racing Commission rules" ~~shall~~ mean means all rules which pertain in any way to a commercial permit holder.
- (C) Once a permit holder has filed an application for a license to operate a satellite wagering facility, the commission ~~shall~~ will conduct a background investigation of the owners or stockholders of land, space or premises used for the proposed construction or operation of the satellite wagering facility. The commission ~~shall require~~ will need a complete disclosure of all owners or stockholders of the land, space or premises in question in an application submitted to the commission within thirty days of receipt of permit holder's satellite wagering facility application.

The potential lessor ~~shall~~ will state in the application whether ~~he has~~ they have ever been convicted of a felony or pled guilty to a felony charge and provide any applicable exhibits. The applicant ~~shall~~ will submit a set of fingerprints taken at a law enforcement agency and provide complete authorization to release any criminal records to the commission.

Such application will be unnecessary if the permit holder proposing to operate the satellite wagering facility provides documentation of complete ownership of the land and premises within thirty days of receipt of permit holder's satellite wagering facility application.

- (1) The commission ~~shall~~ will collect from permit holders any and all costs for materials, personnel and the conduct of a hearing as the result of any submission by a potential lessor containing any falsification of information contained in any application or exhibit.

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3769-2-37

Definitions.

As used in rules 3769-2-37 to 3769-2-41, unless the context ~~requires~~ necessitates otherwise:

- (A) "Access" as a noun means an instance of copying, viewing, or otherwise perceiving whereas "access" as a verb means to copy, view, or otherwise perceive.
- (B) "Acquisition of a new computer system" means the purchase of a "computer system," as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the commission rule addressing ~~requirements~~ obligations in section 1347.15 of the Revised Code.
- (C) "Computer system" means a "system," as defined by section 1347.01 of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.
- (D) "Confidential personal information" (CPI) has the meaning as defined by division (A) (1) of section 1347.15 of the Revised Code and identified by rules promulgated by the commission in accordance with division (B)(3) of section 1347.15 of the Revised Code that reference the federal or state statutes or administrative rules that make personal information maintained by the commission confidential.
- (E) "Employee of the commission" means each employee of a commission regardless of whether ~~he/she holds~~ they hold an elected or appointed office or position within the commission. "Employee of the commission" is limited to the specific employing commission.
- (F) "Incidental contact" means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.
- (G) "Individual" means a natural person or the natural person's authorized representative, legal counsel, legal custodian, or legal guardian.
- (H) "Information owner" means the individual appointed in accordance with division (A) of section 1347.05 of the Revised Code to be directly responsible for a system.
- (I) "Person" means a natural person.
- (J) "Personal information" has the same meaning as defined in division (E) of section 1347.01 of the Revised Code.

- (K) "Personal information system" means a "system" that "maintains" "personal information" as those terms are defined in section 1347.01 of the Revised Code. "System" includes manual and computer systems.
- (L) "Research" means a methodical investigation into a subject.
- (M) "Routine" means commonplace, regular, habitual, or ordinary.
- (N) "Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person" as that phrase is used in division (F) of section 1347.01 of the Revised Code means personal information relating to employees and maintained by the commission for internal administrative and human resource purposes.
- (O) "System" has the same meaning as defined by division (F) of section 1347.01 of the Revised Code.
- (P) "Upgrade" means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal ~~requirements~~obligations.

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3769-2-38

Procedures for accessing confidential personal information.

For personal information systems, whether manual or computer systems, that contain confidential personal information, the commission ~~shall~~will do the following:

- (A) Criteria for accessing confidential personal information. Personal information systems of the commission are managed on a "need-to-know" basis whereby the information owner determines the level of access ~~required~~needed for an employee of the commission to fulfill ~~his/her~~their job duties. The determination of access to confidential personal information ~~shall~~will be approved by the employee's supervisor and the information owner prior to providing the employee with access to confidential personal information within a personal information system. The commission ~~shall~~will establish procedures for determining a revision to an employee's access to confidential personal information upon a change to that employee's job duties including, but not limited to, transfer or termination. Whenever an employee's job duties no longer ~~require~~need access to confidential personal information in a personal information system, the employee's access to confidential personal information ~~shall~~will be removed.
- (B) Individual's request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information about the individual maintained by the commission, the commission ~~shall~~will do all of the following:
- (1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;
 - (2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and
 - (3) If all information relates to an investigation about that individual, inform the individual that the commission has no confidential personal information about the individual that is responsive to the individual's request.
- (C) Notice of invalid access.
- (1) Upon discovery or notification that confidential personal information of a person has been accessed by an employee for an invalid reason, the commission ~~shall~~will notify the person whose information was invalidly accessed as soon

as practical and to the extent known at the time. However, the commission ~~shall~~will delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation or jeopardize homeland or national security. Additionally, the commission may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals' confidential personal information invalidly was accessed, and to restore the reasonable integrity of the system.

"Investigation" as used in this paragraph means the investigation of the circumstances and involvement of an employee surrounding the invalid access of the confidential personal information. Once the commission determines that notification would not delay or impede an investigation, the commission ~~shall~~will disclose the access to confidential personal information made for an invalid reason to the person.

- (2) Notification provided by the commission ~~shall~~will inform the person of the type of confidential personal information accessed and the date(s) of the invalid access.
 - (3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.
- (D) Appointment of a data privacy point of contact. The executive director ~~shall~~will designate an employee of the commission to serve as the data privacy point of contact. The data privacy point of contact ~~shall~~will work with the chief privacy officer within the office of information technology to assist the commission with both the implementation of privacy protections for the confidential personal information that the commission maintains and compliance with section 1347.15 of the Revised Code and the rules adopted pursuant to the authority provided by that chapter.
- (E) Completion of a privacy impact assessment. The executive director ~~shall~~will designate an employee of the commission to serve as the data privacy point of contact who ~~shall~~will timely complete the privacy impact assessment form developed by the office of information technology.

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3769-2-39

Valid reasons for accessing confidential person information.

(A) Performing the following functions constitute valid reasons for authorized employees of the commission to access confidential personal information:

- (1) Responding to a public records request;
- (2) Responding to a request from an individual for the list of CPI the commission maintains on that individual;
- (3) Administering a constitutional provision or duty;
- (4) Administering a statutory provision or duty;
- (5) Administering an administrative rule provision or duty;
- (6) Complying with any state or federal program ~~requirements~~ obligations;
- (7) Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;
- (8) Auditing purposes;
- (9) Licensure [or permit, eligibility, filing, etc.] processes;
- (10) Investigation or law enforcement purposes;
- (11) Administrative hearings;
- (12) Litigation, complying with an order of the court, or subpoena;
- (13) Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approvals/issues);
- (14) Complying with an executive order or policy;
- (15) Complying with a commission policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar commission; or
- (16) Complying with a collective bargaining agreement provision.

- (17) Any other reason the executive director documents is necessary for the commission to carry out its duties to regulate the horse racing industry.

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3769-2-41

Restricting and logging access to confidential personal information in computerized personal information systems.

For personal information systems that are computer systems and contain confidential personal information, the commission ~~shall~~will do the following:

- (A) Access restrictions. Access to confidential personal information that is kept electronically ~~shall require~~will need a password or other authentication measure.
- (B) Acquisition of a new computer system. When the commission acquires a new computer system that stores, manages or contains confidential personal information, the commission ~~shall~~will include a mechanism for recording specific access by employees of the commission to confidential personal information in the system.
- (C) Upgrading existing computer systems. When the commission modifies an existing computer system that stores, manages or contains confidential personal information, the commission ~~shall~~will make a determination whether the modification constitutes an upgrade. Any upgrades to a computer system ~~shall~~will include a mechanism for recording specific access by employees of the commission to confidential personal information in the system.
- (D) Logging ~~requirements—obligations~~ regarding confidential personal information in existing computer systems.
 - (1) ~~The commission shall require employees~~Employees of the commission who access confidential personal information within computer systems have to maintain a log that records that access.
 - (2) Access to confidential information is not ~~required~~needed to be entered into the log under the following circumstances:
 - (a) The employee of the commission is accessing confidential personal information for official commission purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.
 - (b) The employee of the commission is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

- (c) The employee of the commission comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group of specifically named individuals.
 - (d) The employee of the commission accesses confidential personal information about an individual based upon a request made under either of the following circumstances:
 - (i) The individual requests confidential personal information about himself/herself.
 - (ii) The individual makes a request that the commission takes some action on that individual's behalf and accessing the confidential personal information is ~~required~~ needed in order to consider or process that request.
 - (3) For purposes of this paragraph, the commission may choose the form or forms of logging, whether in electronic or paper formats.
- (E) Log management. The commission ~~shall~~ will issue a policy that specifies the following:
- (1) Who ~~shall maintain~~ maintains the log;
 - (2) What information ~~shall be~~ is captured in the log;
 - (3) How the log is to be stored; and
 - (4) How long information kept in the log is to be retained.
- Nothing in this rule limits the commission from ~~requiring~~ mandating logging in any circumstance that it deems necessary.

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3769-2-42

Video lottery sales agent employee license; application on reciprocal validation.

- (A) No one ~~shall~~will be employed in any capacity unless they have been licensed. Applicants for video lottery sales agent employee licenses on reciprocal validation ~~shall~~will apply in a manner determined by the commission. Each such license, unless revoked or suspended for cause, ~~shall~~will automatically renew each January first in which the applicant is licensed by the lottery commission.
- (1) All applications for licenses ~~shall~~will carry the full name and permanent address of the applicant with street or rural route number and zip code. No temporary address of any kind will be acceptable, unless the applicant ~~shall affirm that~~ affirms they have no permanent address.
- (2) If a licensee or applicant changes ~~his or her~~their address or telephone number at any time during the licensing year, it ~~shall be~~is the licensee's responsibility to notify the commission of the change within fifteen days.
- (B) A corporation, association, partnership, limited liability company, or trust, when it files an application for a license on reciprocal validation ~~shall~~will also provide the following:
- (1) A list of all officers, directors and stockholders or partners (both general and limited) with their names, addresses and occupations. If the stock is publicly traded, then only the names, addresses and occupations of the officers, directors and owners of ten per cent or more of the stock need be given; and
- (2) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the applicant, it ~~shall~~will file the same information as ~~required~~needed in paragraph (B)(1) of this rule.
- (C) Each application submitted under this rule ~~shall be~~is exempt from the licensing fees assessed pursuant to rule 3769-2-24 of the Administrative Code, except as otherwise agreed to by the commission and the lottery commission through a license fee sharing agreement.
- (D) For purposes of this rule, an applicant who has submitted fingerprints to the lottery commission for a video lottery sales agent employee license pursuant to Chapter 3770:2-4 of the Administrative Code ~~shall be~~is deemed to have complied with ~~the requirements of~~ rule 3769-2-19 of the Administrative Code.

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3769-2-99

Penalties commission may impose.

- (A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards or judges from doing so, the stewards or 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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