



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Chapter 7 No Change Rules

Rule Number(s): 3769-7-01, 02, 03, 04, 05, 06, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 42, 44, 46

Date of Submission for CSI Review: April 7, 2021

Public Comment Period End Date: May 10, 2021

Rule Type/Number of Rules:

New/___ rules

No Change/___X___ rules (FYR? _Y__)

Amended/___ rules (FYR? ___)

Rescinded/___ rules (FYR?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.**

Please include the key provisions of the regulation as well as any proposed amendments.

3769-7-01 states horse owners must be licensed, and horse owners and trainers must have workers compensation insurance for their employees.

3769-7-02 states the requirements of owners, corporations, partnerships, syndicates and other entities to obtain a racing license.

3769-7-03 states any owner or trainer may have an agent and the requirements of authorized agents for procuring a racing license.

3769-7-04 The owners must register their colors. A jockey shall ride the owner's colors in a race. The permit holders must provide jockey caps unless the owner provides the jockey cap.

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3769-7-05 When two horses in a race are owned by one person, the two jockeys must have contrasting colored caps.

3769-7-06 states the penalties enticing or attempting to entice any employee for breaking a written contract with another licensee.

3769-7-09 states an owner or trainer must give cause to discharge a jockey, groom or attendant and penalties for not giving cause.

3769-7-10 states the requirement for a trainer to hire a substitute trainer if the trainer is not going to be at the racing facility.

3769-7-11 states the penalties for hiring a jockey to keep him/her from riding another horse in the same race.

3769-7-12 states the stewards can require a jockey to obtain a physical examination from a licensed physician before being permitted to race at the track.

3769-7-13 States the requirements for a jockey to be allowed to ride a horse in a race

3769-7-14 states the requirements of apprentice jockeys.

3769-7-15 states the restriction of a jockey's riding a horse if the jockey has financial interest in another horse at the meet.

3769-7-16 states the restriction of a jockey riding against an employer.

3769-7-17 states when jockey's fees are earned.

3769-7-18 states the restriction on wagering by jockeys.

3769-7-19 states the jockey can procure his own riding assignments or can use an agent to obtain riding assignments.

3769-7-20 states a jockey must fulfill his or her riding obligations,

3769-7-21 states the penalties for corrupt riding.

3769-7-22 states what is fraudulent practices and penalties for fraudulent practices.

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3769-7-23 states jockey agent requirements and licensing procedures.

3769-7-24 states an agent may be sanctioned for falsifying records.

3769-7-25 states the requirements of the jockeys while in the jockey's quarters.

3769-7-26 states obligations of the jockey quarters' custodian.

3769-7-27 states jockeys shall not use drugs unless prescribed by a physician.

3769-7-28 states the restrictions of jockeys in wagering areas while working as a jockey.

3769-7-29 states the jockey fee schedules.

3769-7-30 states the owner engages two jockeys he must pay the losing mount fee to both the losing mount fee.

3769-7-31 states the jockey cannot ride for a lesser fee.

3769-7-32 states what a jockey can do during a suspension.

3769-7-33 states the valet's requirements

3769-7-34 states that valets are not allowed to wager on horse racing while working as a valet.

3769-7-37 states the penalties for improper language.

3769-7-38 states that a suspended person can be denied admission to the permit holders' grounds.

3769-7-39 states the horses of a suspended person may be suspended.

3769-7-40 states a suspended persons' entry into a race is void.

3769-7-42 states any licensee who receives an penalty can appeal that decision.

3769-7-44 states a licensee can be suspended for writing a bad check.

3769-7-46 states the employee of any commercial track is prohibited from dealing in horses.

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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.**

R.C. 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?**

If yes, please briefly explain the source and substance of the federal requirement.

No, it is not part of any federal program

5. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

No, it is not part of any federal program

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)?**

These regulations protect the integrity of horse racing. These regulations protect race participants and the wagering public by outlining the requirements for licensees who want to participate in horse racing.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

These regulations have been in place for some time and the Commission believes the success of the regulation has been demonstrated. The stakeholders did not request any changes to these rules.

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.

No

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Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The primary stakeholders are the seven commercial permit holders and members of the horsemen's association who are required to implement and/or follow these rules. They were contact by e-mail on December 19, 2020

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

These rules were provided to the industry for comments. No comments were received for suggested changes. The commission reviewed the rules and did not recommend any changes.

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?

No additional scientific data was used to develop these rules, only the suggestions and comments of the stakeholders who have been deeply immersed in the horseracing industry in Ohio.

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?

After the stakeholders and commission staff reviewed these rules. There were no alternatives suggested by stakeholders or the Commission.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

No, these regulations require permit holders, owners, trainers, and drivers to follow a consistent set of rules.

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

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

15. 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.

The Commission has employees at all the racetracks to ensure the regulations are applied consistently and predictably.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

The scope of the impacted business community includes the seven-commercial permit holders in Ohio and the licensees associated with horse racing.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and

3769-7-01 The adverse impact is the cost to owners, trainers, and driver to be licensed and the cost to obtain a worker's compensation policy.

3769-7-02 The adverse impact is the time to fill out application and pay license fee to procure an owners' license.

3769-7-03 The adverse impact is the time to fill out application and pay license fee to procure an authorized agent license.

3769-7-04 The adverse impact is the cost of the jockey cap and the owner's colors for the shirt and pants.

3769-7-05 The adverse impact is the cost of the jockey cap.

3769-7-06 The adverse impact is a licensee could be fined or suspended.

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3769-7-09 The adverse impact is to the licensee who may incur fines and/or suspensions for discharging a contract person(s) without a written notice.

3769-7-10 The adverse impact is that the trainer will have to pay a substitute trainer to do his or her duties.

3769-7-11 The adverse impact is the owner or trainer may be fined or suspended and referred to the commission for further action.

3769-7-12 The adverse impact is the time and cost associated with physical examination.

3769-7-13 The adverse impact is the monetary fees and time required for apprentice jockeys to gain experience.

3769-7-14 The adverse impact is the monetary fees and time required for apprentice jockeys to gain experience.

3769-7-15 The adverse impact is a jockey could be fined and/or suspended.

3769-7-16 The adverse impact is a jockey could be fined and/or suspended.

3769-7-17 The adverse impact is a jockey could be fined and/or suspended.

3769-7-18 The adverse impact is a jockey could be fined and/or suspended and referred to the commission for further action.

3769-7-19 There is no adverse impact.

3769-7-20 The adverse impact to a jockey who does not want to fill his/her engagements could be suspended or fined.

3769-7-21 The adverse impact to any jockey found to be engaging in corrupt riding is subject to fine and/or suspension and referral to the commission for further possible sanctions.

3769-7-22 The adverse impact is to the person (s) who the stewards believe are engaging in fraudulent practices as they could be fined and/or suspended and referred to the commission.

3769-7-23 The adverse impact is the jockey agent must obtain a license. The jockey agent could be fined or suspended for not following the rule.

3769-7-24 The jockey agent may be fined or suspended for not following this rule.

3769-7-25 The jockey could be fined or suspended for not following this rule.

3769-7-26 The adverse impact is the jockey quarters' custodian could be a fined and/or suspended for not following this rule.

3769-7-27 The adverse impact would be if a jockey was found to be intoxicated or on prohibited medications during the races in the jockey quarters. He/she could be fined and/or suspended.

3769-7-28 The adverse impact is the jockey in silks found in wagering areas during the races could be fined and/or suspended and referred to the commission.

3769-7-29 The adverse impact is the owner or licensee must pay the jockey fee.

3769-7-30 The adverse impact is the owner or trainer who engages more than one jockey for the same race may have to pay two jockey fees,

3769-7-31 The adverse impact is the jockey could be fined and/or suspended.

3769-7-32 The adverse impact is the jockey can be fined or suspended.

3769-7-33 The adverse impact is a jockey could be fined and/or suspended.

3769-7-34 The adverse impact is the valet caught wagering could be fined or suspended.

3769-7-37 The adverse impact is any licensed person engaging in foul language and/or disturbing the peace can be ejected, fined, suspended, or referred to the commission for further possible sanctions.

3769-7-38 The adverse impact is a suspended person is denied access to the racing facility.

3769-7-39 The adverse impact is the horse of a suspended owner or trainer can be suspended as well

3769-7-40 The adverse impact is a person that is suspended or expelled any entry is voided.

3769-7-42 The adverse impact of this rule is the person found in violation of the rules of racing would have to return the purse.

3769-7-44 The adverse impact is the licensee could be fined or suspended for not following this rule.

3769-7-46 The adverse impact is the employee could be fined or suspended for not following this rule.

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c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

3769-7-01 Licenses can range in cost from \$25 to \$50.

3769-7-02 Licenses can range from \$25 to \$50.

3769-7-03 The cost of a license for an authorized agent is \$50.

3769-7-04 The owners' colors can cost up to two hundred dollars. The jockey cap is \$40.

3769-7-05 The cost jockey caps are approximately \$40.

3769-7-06 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-09 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-10 Trainer's fees range from no charge to \$200 a day.

3769-7-11 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-12 Most physical examinations are between one hundred to two hundred dollars.

3769-7-13 While not a lot of earned income initially, it sets the stage for a successful riding career in years to come.

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3769-7-15 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

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3769-7-16 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-17 The normal range is from a warning up to \$250. 00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-18 The fine could be up to one thousand dollars and the jockey could be suspended up to one year and could lose his/her license.

3769-7-19 There is no adverse impact.

3769-7-20 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-21 The fine could be up to one thousand dollars and the jockey could be suspended up to one year and could lose his/her license.

3769-7-22 The fine could be up to one thousand dollars and the jockey could be suspended up to one year and lose his/her license.

3769-7-23 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-24 The fine could be up to one thousand dollars and the jockey could be suspended up to one year and could lose his/her license. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-25 The fine could be up to ten thousand dollars and the jockey could be suspended and could lose his/her license. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-26 The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-27 The normal range is fine of \$250.00 and suspended for sixty days. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-28 The normal range is from a warning up to \$250.00. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-29 The fee schedule is set by statute.

3769-7-30 The losing fee is between \$50 to \$105.

3769-7-31 The normal range for a fine is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-32 If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-33 The normal range is from a warning up to \$250.00 fine. If a valet is suspended, the amount of money lost would be determined by the number of races the owner and jockey win while he/she are suspended.

3769-7-34 A The fine could be up to one thousand dollars and the valet could be suspended up to one year and could lose his/her license. If a valet is suspended, the amount of money lost would be determined by the number of races the owner and jockey win while he/she are suspended.

3769-7-37 A licensed person could be ejected from the grounds. The normal range is from a warning up to \$250.00 fine. If a jockey is suspended, the amount of money lost would be determined by the number of races the jockey misses while suspended.

3769-7-38 A suspended person is denied his/her ability to make a living. The amount would be determined by the number of horses entered to the races.

3769-7-39 The horse could not earn money for the suspended trainer or owner. The amount would be determined by the length of suspension for the trainer or owner.

3769-7-40 The horse could not earn money for the suspended trainer or owner. The amount would be determined by the length of suspension for the trainer or owner.

3769-7-43 The person suspended in another state could not make a living on horse racing in Ohio. The amount is difficult to determine.

3769-7-45 The owner must pay back the purse.

3769-7-46 The employee could be fined up to one thousand dollars and suspended for up to one year.

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

3769-7-01 The adverse impact of the cost to owners, trainers, and drivers to be licensed and to obtain a workers' compensation policy is justified to ensure that all participants race under the same rules and follow Ohio law regarding workers' compensation.

3769-7-02 The adverse impact of the cost of the licensing requirements for owners involved in corporations, partnerships and syndicates is justified to ensure that no persons who are suspended are participating in horse racing.

3769-7-03 The adverse impact is justified as the commission requires knowledge of which person is authorized to work as an authorized agent. The rule is justified because authorized agents must have a racing license and can be held accountable for not following the rules of racing.

3769-7-04 The stewards need to easily identify the jockeys for possible rule violations. The betting public needs to easily identify the jockeys to follow the race.

3769-7-05 This rule is justified to protect the integrity of horse racing and safeguard the interest of the public and racing participants. The rule is justified because permit holders provide jockey caps of contrasting colors when one owner has two horses in the same race to have clarification between horses for the wagering public and stewards.

3769-7-06 The rule is justified because there must be penalties for breaking a written contract to protect licensees, the wagering public, and the integrity of racing.

3769-7-09 The rule is justified because there must be penalties for discharging a contract person without a written notice to ensure the fairness and integrity of racing.

3769-7-10 The rule is justified because to protect the integrity of racing and wagering public. Also, to protect the health of the horse by having a knowledge person in charge of the horse's health.

3769-7-11 The rule is justified to have penalties in place to keep owners from trying to coerce a jockey to ride another horse in the same race.

3769-7-12 The rule is justified to protect wagering public, integrity of racing, the health of the horse and other jockeys in the race.

3769-7-13 The rule justified to protect the wagering public, integrity of racing, the health of the horse and other jockeys in the race.

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3769-7-14 The rule is justified because if a jockey has financial interest in a horse in training, he/she may not ride another horse with sufficient effort to win a race.

3769-7-15 The rule justifies restrictions of jockeys riding against an employer to protect the wagering public, integrity of racing. A jockey may favor his employer and not the owner of the horse that he is riding in the race.

3769-7-17 The rule is justified because it clarifies the conditions for a jockey to be paid how jockeys are paid.

3769-7-18 The rule justified to protect wagering public integrity of racing through prohibiting jockeys from wagering on horses other than their own.

3769-7-19 There is no adverse impact.

3769-7-20 The rule is justified to protect the wagering public by the wagering public knows which jockey will ride the horse. The stewards can require the jockey to meet his riding obligations.

3769-7-21 The penalties for corrupt riding are well justified to protect wagering public, integrity of racing.

3769-7-22 Penalties for fraudulent practices are well justified to protect wagering public, integrity of racing from fraudulent practices.

3769-7-23 The rule is justified to wagering public, integrity of racing by setting conditions a jockey agent must follow.

3769-7-24 to protect the wagering public, integrity of racing by prohibiting a racing agent from falsifying records and being in the paddock during racing hours.

3769-7-26 The rule is justified because it states the obligations of the jockey quarters' custodian.

3769-7-27 The rule is justified by prohibiting the use of intoxicants or drugs during the racing day which protects the wagering public and the integrity of racing. It also protects the horse's health and other jockeys in the race.

3769-7-28 The rule is justified to protect the wagering public and integrity of racing by the restricting the jockeys while on duty from being in wagering areas and potentially getting on races and passing information to other bettors.

3769-7-29 The rule follows the statute.

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3769-7-30 The rule is justified to protect the original jockey who was named on the original mount and is substituted, he or she receives a losing mount fee.

3769-7-31 The rule is justified because it protects the jockey from being pressured to take a lower fee.

3769-7-32 The rule clarifies what a jockey can do while suspended. A jockey is suspended in Ohio if suspended by another racing jurisdiction. It also informs the jockeys of the length of suspension for infractions.

3769-7-33 The rule is justified because it clarifies the duties of the valets.

3769-7-34 The rule justified to protect the wagering public and the integrity of racing by prohibiting the valet to wager.

3769-7-37 The rule is justified because it prohibits threatening an official and using improper language.

3769-7-38 The rule is justified because a suspended person should not be allowed on the racing property.

3769-7-39 The rule is justified because it allows the stewards to suspend a horse for the actions of the licensee.

3769-7-40 The rule is justified because a suspended person should not be allowed to participate in horse racing.

3769-7-41 The rule is justified because a person who wins a purse by fraudulent practices should not be rewarded for the fraudulent practices and should have to return the purse to licensees who did not engage in fraudulent practices.

3769-7-43 The rule is justified because it prohibits suspended individuals in other jurisdictions to engage in horse racing in Ohio.

3769-7-45 The rule is justified because it disqualifies a horse and allows the redistribution of the purse and it's a reward for licensees who follow the rules.

3769-7-46 The rule is justified because it protects the wagering public, integrity of racing by not allowing a racing office employee to purchase or sell a horse during the racing meeting.

Regulatory Flexibility

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

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No, this regulation applies to only seven commercial race track 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?

R.C. 119.14 is not applicable.

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

The Commission website at www.racingohio.net

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900

The Deputy Director and Legal Counsel is at Michael.Rzymek@racing.ohio.gov