



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. 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 Amended Rules

Rule Number(s): 3769-7-35, 41, 43, 45, 99

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/\_\_\_ rules (FYR? \_\_\_)

Amended/\_\_\_x\_\_\_ rules (FYR? \_\_\_x\_\_\_)

Rescinded/\_\_\_ rules (FYR?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.*

3769-7-35 All fines must be paid to the stewards within a certain time period.

3769-7-41 If a person is sanctioned for fraudulent practices, the person must return the prize money.

3769-7-43 If a person and/or horse is suspended in another racing jurisdiction, the person and/or horse is suspended in Ohio.

3769-7-45 The procedure to redistribute prize money when a rules violation is determined after the prize money has been paid to the participants .

3769-7-99 The penalties the commission may impose.

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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.*

The Commission is the only entity that regulates horse racing in Ohio. 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.**

It is not part of a 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?**

The stakeholders requested these changes to the 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

**Development of the Regulation**

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

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*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. The stakeholders were sent these rules.

**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. The stakeholders requested these changes to the rules. The other changes are to comply with LSC rule drafting standards.

**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?**

There were no other alternatives suggested for these rules

**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.

**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 each of the tracks to ensure the rules are applied consistently and predictably.

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## **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;**

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,);**

3769-7-35 The adverse impact is the person is suspended if the fine is not timely paid.

3769-7-41 The adverse impact is the person sanctioned must return the prize money.

3769-7-43 The adverse impact of this rule is the person suspended in another state is suspended in Ohio.

3769-7-45 The adverse impact is the licensee could be suspended for not following this rule.

3769-7-99 The adverse impact is the licensee could be fined or suspended.

**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.*

3769-7-35 The person is suspended from racing until the fine is paid to the stewards.

3769-7-41 The race prize money is between two thousand to fifty thousand dollars

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 which is between two thousand up to fifty thousand.

3769-7- 99 A licensee could be suspended up to one year and fined up to one thousand dollars.

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

3769-7-35 The person must pay the fine in a timely manner.

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 the redistribution of prize money rewards licensees who follow the rules.

3769-7-99 The commission needs to be able to punish licensees who do not follow the rules of racing.

**Regulatory Flexibility**

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

No. The horsemen are small business so there are no large corporations with horse racing in Ohio.

**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](http://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

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