

*** DRAFT - NOT YET FILED ***

3769-17-09

Safety helmet and Safety Vest.

~~No individual will be permitted to drive a horse on a permit holder's premises unless wearing a protective safety helmet of a type satisfactory to the commission with chin strap in place.~~

No individual will be permitted to ride, drive, or be behind a horse on a permit holder's premises unless wearing both a protective safety helmet with the chin strap in place, and an unaltered protective safety vest. Both shall be of a type satisfactory to the commission.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information:

Tanya Boulmetis Tanya.Boulmetis@Racing.Ohio.Gov 614-779-0270

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

Safety helmet and safety vest

Rule Number(s): 3769-17-09

Date of Submission for CSI Review: September 13, 2022

Public Comment Period End Date: September 23, 2022

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ __X__ 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Rescinded/___ rules (FYR?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.**
Requires a safety helmet and safety vest.
- 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?**

No.

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

This is not part of a federal program.

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- 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)?**

This regulation protects the safety of racing participants.

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

The helmet regulation has been in place for some time and the Commission believes the success of the regulation has been demonstrated. The addition of a safety vest will lessen injuries to participants.

- 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?**

No.

Development of the Regulation

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

The horsemens group was consulted, and

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

Their suggestions were implemented.

- 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?**

Safety is a high priority for the commission.

- 13. Did the Agency specifically consider a performance-based regulation? Please explain.**

No, these regulations require horsemen 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.

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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 are the licensees associated with horseracing.

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

The adverse impact is the cost of a safety helmet and a safety vest. A licensee could be fined or suspended.

c. Quantify the expected adverse impact from the regulation.

The cost of a safety helmet is \$300 and up, the cost of a safety vest is similar to that.

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

The adverse impact is justified to ensure safety of all participants.

Regulatory Flexibility

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

No. It is important to to ensure safety of all participants.

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 is available via email: Tanya.Boulmetis@racing.ohio.gov

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