*** DRAFT - NOT YET FILED ***

3769-16-29 **Starters, no contest, unmanageable, bad acting horses, post positions by heats.**

(A) Starters: the horses ~~shall~~are ~~be~~ deemed to have started when the word "go" is given by the starter and all the horses must go the course except in case of an accident in which it is the opinion of the judges that it is impossible to go the course.

(B) Accident warning lights. Every extended pari-mutuel track will be equipped with a three-light system of green, yellow, and red beacon style warning lights and sirens for use in the event of an accident. From the time the ambulance is on site and ready for immediate duty as defined in section 3769-14-12 of the administrative code, the Judges will activate the green "all clear" light to signal no known problems on the racetrack.

(1) At any point during the live racing card, if the Judges determine there is a condition on the racetrack requiring the Drivers to proceed with caution, the Judges will activate the yellow "caution" warning light.

(2) The following will be considered grounds for the judges to declare a heat or race a "no contest" at an extended pari-mutuel meet racetrack:

(a) If, in the opinion of the judges, the safety of the drivers and horses are in jeopardy due to an incident; or

(b) If a horse is traveling clockwise; or

(c) The judges activate the red light and siren to declare the race a "no contest" due to safety issues.

(i) Upon the activation of the red light and siren all drivers in a race will immediately cease racing, follow any instructions of the Judges, Starter, Track Announcer, or Racing Officials to get off the track as quickly and safely as they can. Drivers refusing to stop racing may be subject to a monetary penalty or suspension. When the red "no contest" light is turned off, the Judges will activate the green "all clear" light as a signal for warm-ups and live racing to resume.

~~(B)~~(C) Unmanageable horse: if, in the opinion of the judges or starter, a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, it may be sent to the barn. When this action is taken, the starter will notify the judges who will in turn notify the public, and refund all wagers on said horse.

~~(C)~~(D) Bad acting horse: the starter may place a bad acting horse on the outside at his discretion. Such action may be taken only where there is time for the starter to notify the judges who will in turn notify the public prior to the sale of tickets on

*** DRAFT - NOT YET FILED ***

such race. If tickets have been sold, the bad acting horse must be scratched under the provision of paragraph (B) of this rule.

~~(D)~~(E) Post positions, heat racing: the horse winning a heat ~~shall~~will take the pole (or inside position) the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed the last heat. When two or more horses shall have made a dead heat, their positions shall be settled by lot.

~~(E)~~(F) Shield: the arms of all starting gates ~~shall~~ will be provided with a screen or shield in front of the position for each horse, and such arms shall be perpendicular to the rail.

~~(F)~~(G) Every licensed starter is required to check his starting gate for malfunctions before commencing any meeting, and to practice the procedure to be followed in the event of malfunction. Both the starter and the driver of the gate must know and practice emergency procedures, and the starter is responsible for the training of drivers in such procedures.

Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Chapters 4 and 14: minority opinion, Chapter 16 starters and placings

Rule Number(s): **3769-4-33; 3769-14-34; 3769-16-29**

Date of Submission for CSI Review: **March 16, 2023**

Public Comment Period End Date: **March 31, 2023**

Rule Type/Number of Rules:

New/___ rules

Amended/_Y_ rules (FYR? Y_)

No Change/____ 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.

Reason for Submission

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

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

   The rule(s):

   a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**

   b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**

   c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**

   d. ☒ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**
   3769-4-33: The procedure if the Stewards disagree on an issue. This changes the reporting of a minority report to the person in the minority rather than the persons in the majority.
   3769-14-34: The procedure if the Judges disagree on an issue. This changes the reporting of a minority report to the person in the minority, rather than the persons in the majority.
   3769-16-29: These are additional rules for horses to start a race or are racing. The amendment gives conditions when a race is to be declared a "no contest" and horses are to stop racing for safety purposes.
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 implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   Federal Rules are not part of these amendments.

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 are necessary to safe and fair racing in Ohio.

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

   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?**
   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 thoroughbred and standardbred stakeholders were consulted. .

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

    The rules were provided to the industry for comments, and there were no comments submitted.

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.

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?**
    No alternative regulations were considered. There was no objection from the shareholders.

13. **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.

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.**

    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, and**
The Stewards, Judges, and horsepersons are the impacted business community.

b. **Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**
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.
3769-16-29 could affect a driver if they fail to follow the rules when a race is declared a "no contest" due to safety reasons. The driver may be fined or suspended. A Steward or Judge could be fined or suspended for failure to comply with 3769-4-33 and/or 3769-14-34.

16. **Are there any proposed changes to the rules that will <u>reduce</u> a regulatory burden imposed on the business community? Please identify.** ***(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).***
The burden of reporting the minority opinion falls on the person in the minority to report

17. **Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** ***For 3769-16-29 The horses and horsemen need to be protected for safety reasons. For 3769-4-33 and/or 3769-14-34 the burden falls on the person in the minority, not the persons in the majority.***

Regulatory Flexibility

18. **Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**
No, this regulation is only applied to drivers.

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