

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 15

Rule Number(s): 3769-15-01 Amended Rule; 3769-15-30, 3769-15-31 No Change Rules

Date: September 6, 2018

These rules are one amended rule and two no-change rules and may be found by accessing the Commission's website at [www.racingohio.net](http://www.racingohio.net).

**Rule Type:**

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

3769-15-01 states the duties of the race secretary and how post positions are drawn for a race.

3769-15-30 states the procedures to enter a horse in a race and when horses entered can be withdrawn from a race.

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3769-15-31 states which horses are eligible to start a race and which horses have a preference over other horses to start a race.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

R.C. 3769.03

**3. 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, it is not part of any federal program

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

These rules are not part of any federal requirement or program

**5. 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)?**

3769-15-01 There is a need for a person to determine who is eligible to enter a race and to determine post positions for a race.

3769-15-30 There needs to be a process to enter a horse in a race and the procedure to withdraw a horse from a race. Also the procedure to change a driver for a race.

3769-15-31 There is a need to determine which horses have preference over other horses to enter a race

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

The change in 3769-15-01 will allow the race secretary to use a computer to determine post position as is the practice at the tracks

3769-15-30 and 3769-15-31 have been in place for some time and the Commission believes the success of the regulation has been demonstrated.

**Development of the Regulation**

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

The stakeholders include the seven commercial permit holders and horsemen's racing associations.

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

This rule was provided to the industry for comments.

The stakeholders recommended the change for 3769-15-01.

The Ohio Harness Horsemen's Association (OHHA) requested changes to 3769-15-30 and 3769-15-31.

**9. 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 this rule.

**10. 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?**

The stakeholders and commission staff have reviewed 3769-15-01 and agreed on this change. The Ohio Harness Horsemen's Association (OHHA) requested changes to 3769-15-30 and 3769-15-31. The Commission does not believe the change was necessary and would not be practical under Ohio Law. The proposed change from the OHHA would require the filing of the contract between the permit holder and the OHHA with Joint Committee on Agency Rule Review (JCARR) because the contract would be incorporated by reference. The incorporated by reference statutes R.C. 121.71 thru 121.74 would also require any changes to this contract to be filed with JCARR. The incorporated by reference statutes would also require the contract between the permit holder and the OHHA to be made available to all horsemen who wish to enter a race since this contract would discuss which horses have preference to enter a race

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

No, this regulation requires permit holders to follow a consistent rule

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

No measures were taken because no other Ohio agency regulates horse racing. Therefore, no duplication will occur.

**13. 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.**

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The change in 3769-15-01 was suggested by stakeholders and is in line with current practices.

3769-15-30 and 3769-15-31 have been implemented for many years on a consistent basis. These regulations are monitored by Commission personnel who work at each race track

### **Adverse Impact to Business**

**14. 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 permit holders in Ohio and the licensees associated with horse racing.

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

3769-15-01 The permit holder must hire a race secretary.

3769-15-30 An owner or trainer may be suspended for withdrawing a horse from a race without permission of the judges. In addition, a horse could be suspended because it was withdrawn from a race without permission of the judges.

3769-15-31 The permit holder must hire a person to review entries and determine who is eligible to enter the race. A horse may not be able to enter a race if the race field is full.

**c. Quantify the expected adverse impact from the regulation.**

3769-15-01 The race secretary makes one thousand five hundred dollars each week during a racing meet which typically last three to four months.

3769-15-30 The owner to trainer may be fined up to one thousand dollars and may be suspended. The horse may not be able to enter a race.

3769-15-31 The race secretary spends approximately five hours to determine who can enter a race.

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

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3769-15-01 There is a need for a race secretary to determine who is eligible to be enter a race and to determine post positions for the race.

3769-15-30 and 3769-15-31. There is a need for procedures to enter a race. There needs to be an order of preference to enter a race.

### **Regulatory Flexibility**

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

No, this regulation applies to seven commercial race track permit holders. 3769-15-31 can be waived for county fairs with permission of the Commission.

**17. 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.

**18. 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 at [Michael.Rzymek@racing.ohio.gov](mailto:Michael.Rzymek@racing.ohio.gov)