



# 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 16 Claiming and Starter Rules No Change and Amended Rule

Rule Number(s): Amended rule 3769-16-27; No Change Rules 3769-16-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, and 99

Date of Submission for CSI Review: \_\_\_\_\_

Public Comment Period End Date: \_\_\_\_\_

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_X\_\_\_ rules (FYR? Yes)

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Rescinded/\_\_\_ rules (FYR?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

3769-16-01 This rule states how winnings are determined .

3769-16-02 This rule states to calculate winnings you start on January 1st .

3769-16-03 This rule states the requirements to claim a horse in a claiming race

3769-16-04 This rule states who is eligible to make a claim.

3769-16-05 This rule states the time to deposit a claim.

3769-16-06 No official or other employee of the permit holder can give information regarding a claim.

3769-16-07 In a claiming race, title to the claimed horse transfers to the new owner when the race begins.

3769-16-08 The claimed horse must be delivered to the new owner at the paddock unless the horse is being tested by the Commission.

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- 3769-16-09 If you fail to deliver the horse to the paddock, a licensee could be fined or suspended.
- 3769-16-10 The restriction on the sale of a claimed horse.
- 3769-16-11 Moving and racing restrictions of a claimed horse.
- 3769-16-12 The person who owns a claimed horse can enter the horse in another claiming race.
- 3769-16-13 You cannot claim your own horse.
- 3769-16-14 An authorized agent or trainer can only submit one claim per race.
- 3769-16-15 A person cannot enter into an agreement with another regarding a claiming race.
- 3769-16-16 A person cannot enter a horse in a claiming race if there is a lien on the horse without the consent of the lien holder.
- 3769-16-17 If you make a false ownership claim, you are subject to penalties.
- 3769-16-18 The stewards may require a person to fill out an affidavit, if there is a concern that the person is claiming a horse on behalf of another person.
- 3769-16-19 This rule states the claiming conditions
- 3769-16-20 The bugle must be sounded. The track is closed once the horses enter the track.
- 3769-16-21 Once the horses enter the track, the starter is in control of the track.
- 3769-16-22 The starter makes sure of a fair start.
- 3769-16-23 The starter's duties.
- 3769-16-24 The rules at the start of a race
- 3769-16-25 Rules if there is a recall of the race.
- 3769-16-26 The starter can discipline the driver for rule violations.
- 3769-16-27 The rules when the horses are in the starting gate
- 3769-16-28 Starting a race without a starting gate
- 3769-16-29 These are additional rules to start a race
- 3769-16-30 The starter shall prepare a list of horses that are not qualified to start.
- 3769-16-31 The starter cannot wager on a race.
- 3769-16-32 A licensed outrider is the person who leads a horse to the dismounting location unless another person is approved by the stewards
- 3769-16-99 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.**

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.***

There are no federal requirements

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

There are no federal requirements

- 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 conduct horse racing in an orderly manner.

- 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?**

*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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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.

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

The stakeholders were sent the rules by e-mail

**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. There is only one rule that is being amended. No comments were received for suggested changes to the remaining rules. The Commission does not believe that the remaining rules need to be changed.

**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 as these rules have been in existence for several years and no changes were found to be warranted by stakeholders or the commission. Except for rule 3769-16-27

**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 to follow a consistent set of rules to be eligible to enter a race.

**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 commercial tracks to ensure compliance with these rules.

**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**

3769-16-01 The permit holder must calculate the winnings for each horse.

3769-16-02 The permit holder must calculate the winnings for each horse.

3769-16-03 The permit holder must provide the forms and envelopes. The trainer must fill out the forms.

3769-16-04 A licensee could be fined or suspended for not following this rule.

3769-16-05 A licensee may not be able to claim a horse.

3769-16-06 An official or permit holder employee could be fined or suspended for not following this rule.

3769-16-07 A licensee may not be able to claim a horse. An official or permit holder employee could be fined or suspended for not following this rule.

3769-16-08 A licensee could be fined or suspended for not following this rule.

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3769-16-09 A licensee could be fined or suspended for not following this rule.

3769-16-10 A licensee could be fined or suspended for not following this rule.

3769-16-11 A licensee could be fined or suspended for not following this rule.

3769-16-12 A licensee could be fined or suspended for not following this rule.

3769-16-13 A licensee could be fined or suspended for not following this rule.

3769-16-14 A authorized agent or trainer could be fined or suspended for not following this rule.

3769-16-15 A licensee could be fined or suspended for not following this rule.

3769-16-16 A licensee could be fined or suspended for not following this rule.

3769-16-17 A licensee could be fined or suspended for not following this rule.

3769-16-18 A licensee could be fined or suspended for not following this rule. A licensee would have to take time to fill out an affidavit.

3769-16-19 A licensee could be fined or suspended for not following this rule.

3769-16-20 A licensee could be fined or suspended for not following this rule.

3769-16-21 A licensee could be fined or suspended for not following this rule.

3769-16-22 A driver could be fined or suspended for not following this rule.

3769-16-23 A driver could be fined or suspended for not following this rule.

3769-16-24 A driver could be fined or suspended for not following this rule.

3769-16-25 A driver could be fined or suspended for not following this rule.

3769-16-26 A driver could be fined for not following this rule.

3769-16-27 A driver could be fined or suspended for not following this rule.

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3769-16-28 A driver could be fined or suspended for not following this rule.

3769-16-29 A driver could be fined or suspended for not following this rule. The horse may not be able to race.

3769-16-30 The starter or his/her assistants could be fined or suspended for not following this rule. The permit holder must pay for assistant starters.

3769-16-31 The starter or his/her assistants could be fined or suspended for not following this rule.

3769-16-32 The permit holder must pay for an outrider.

3769-16-99 The penalties the Commission can impose.

**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.*

3769-16-01 The permit holder spends approximately five hours per week to comply with this rule. The permit holder could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-02 The permit holder spends approximately five hours per week to comply with this rule. The permit holder could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-03 The permit holder spends approximately two hundred dollars a year to comply with this rule. A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-04 The permit holder spends approximately three hours per week to comply with this rule. A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule. The person needs one hundred and fifty dollars to obtain both licenses. A claimant could receive a dead or unsound horse.

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3769-16-05 The permit holder spends approximately one hundred and fifty dollars a year to comply with this rule. A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-06 A racing official and permit holder employee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-07 The licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-08 The person could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-09 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-10 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-11 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-6-12 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-13 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule. .

3769-16-14 An authorized agent or trainer could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-15 The licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-16 The licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-17 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-18 A licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule. The licensee could take up to thirty minutes to complete the affidavit.

3769-16-19 Any licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

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3769-16-20 Any licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-21 The licensee could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-22 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-23 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-24 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-25 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-26 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-27 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-28 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-29 The driver could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-30 The starter or assistants could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule. The permit holder must pay eight hundred dollars a day for assistant starters. There are usually six assistant starters per race day.

3769-16-31 The starter assistant starter could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule.

3769-16-32 The permit holder could be fined up to one thousand dollars and could be suspended up to one year for failure to comply with this rule. It costs the permit holder three hundred dollars per day for outriders

3769-16-99 The penalties the commission may impose.

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

3769-16-01 There is a need to have a system to calculate winnings and the permit holder has the best information.

3769-16-02 There is a need to have a system to calculate winnings.

3769-16-03 There needs to be a procedure to enter a horse in a claim race.

3769-16-04 There needs to be a procedure for whom can claim a horse in a race.

3769-16-05 There needs to be a time limit to claim a horse in a race.

3769-16-06 Officials cannot give any information about a claim because the person who receives the information would have an unfair advantage.

3769-16-07 There needs to be a procedure when the title to the horse is vested.

3769-16-08 There must be a procedure to deliver the horse to the new owner and the paddock is the most logical spot.

3769-16-09 There needs to be a penalty if the claimed horse is not delivered to the new owner.

3769-16-10 In order to ensure the health of the horse, there needs to be moving and racing restrictions for the claimed horse

3769-16-11 In order to ensure the health of the horse, there needs to be moving and racing restrictions for the claimed horse

3769-16-12 There needs to be a procedure for determining claiming prices

3769-16-13 The purpose of a claim race is to allow an owner or trainer to give up a horse, to try and claim your own horse would make the race a sham.

3769-16-14 The purpose of this rule is to ensure the authorized agent does not have a conflict of interest between owners that he represents.

3769-16-15 Every horseman should have the same chance to claim a horse

3769-16-16 A person should be punished for entering a horse in a claim race where there is a lien on the horse without the consent of the person who owns the lien .

3769-16-17 A person who makes a false ownership claim should be subject to sanctions.

3769-16-18 If the stewards believe the claim is not valid, they can investigate the claim including requiring an affidavit by the person claiming the horse.

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3769-6-19 To ensure the welfare of the claimed horse, the commission needs to know whom owns the horse and to ensure the claim was part of the scheme to get around the other claim rules.

3769-16-20 The bugle is a long-time horse-racing tradition. The course needs to be closed for the safety of the jockeys and the horses.

3769-16-21 The starter can ensure safety when the horses enter the racetrack at the start.

3769-16-22 The starter can ensure a fair start for all the horses

3769-16-23 There needs to be a time for the jockey to weigh in on the day of the race.

3769-16-24 In order for the race to be fair to all participants, there needs to be a starter and the starter needs to have authority to ensure the race is fair for all the participants.

3769-16-25 There needs to be a procedure to recall the start of a race so every horse has the same chance to win a race.

3769-16-26 The starter needs the authority to punish drivers that try to obtain an unfair advantage.

3769-16-27 These rule ensure the start of the race is fair to all the participants.

3769-16-28 There needs to be a procedure if the starting gate does not work.

3769-16-29 These conditions help to ensure a fair start for all the horses in the race.

3769-16-30 The starter is in the best position to determine if a horse is not yet qualified to start a race

3769-16-31 The starter and the starter assistants should not have any conflict of interest to ensure the horses are fairly treated.

3769-16-32 The outrider is important for the health and safety of the horse and the driver.

3769-16-99 The penalties the commission may impose.

### **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](http://www.racingohio.net)

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900