

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 17 NO CHANGE RULES 2016

Rule Number(s): 3769-17-01, 02, 03, 04, 05, 06, 07, 08, 09, 9.1, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 38, 39, 40, 43, 99

Date: May 2017

These rules are no-change rules and may be found by accessing the Commission's website at www.racingohio.net or through LA Writer at <http://codes.ohio.gov/oac/3769-6>.

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Rescinded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.

3769-17-01 defines the licensing and workman's compensation requirements for owners, trainers and drivers.

3769-17-02 defines the licensing requirements for owners involved in corporations, partnerships and syndicates.

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3769-17-03 defines requirements of an authorized agent.

3769-17-04 defines the requirements of a substitute trainer.

3769-17-05 defines the requirements by drivers of a physical examination.

3769-17-06 defines drivers' restrictions on driving horses other than their own in a race.

3769-17-07 defines restrictions on an owner, trainer or driver wagering against their own horse in a race in which they are participating.

3769-17-08 defines the restrictions on owners, trainers and drivers for exchanging information during the races.

3769-17-09 defines safety helmet rules.

3769-17-09.1 defines safety reins.

3769-17-10 defines driver's colors.

3769-17-11 defines driving rules.

3769-17-12 defines foul driving.

3769-17-13 defines complaints against officials

3769-17-14 defines owner and trainer responsibility for naming a driver.

3769-17-15 defines rules for a horse finishing a race.

3769-17-17 defines use of the whip.

3769-17-18 defines brutal use of the whip.

3769-17-19 defines restrictions of hobbles and head poles

3769-17-20 defines rules on a horse breaking stride in a race.

3769-17-21 defines fraudulent breaks.

3769-17-22 defines the winning horse's race time.

3769-17-23 defines judge's responsibility to call out breaks made during a race.

3769-17-24 defines the time between heats.

3769-17-25 defines the time allowed if an accident occurs.

3769-17-26 defines how a driver is to be seated at the end of a race.

3769-17-27 defines the use of wheel disks and mud fenders.

3769-17-28 defines what happens when a horse falls or gets loose on the track.

3769-17-29 defines restrictions on disorderly conduct.

3769-17-30 defines suspensions of trainers and drivers.

3769-17-31 defines the effect of minor penalties on future engagements.

3769-17-32 defines the terms of reciprocity in regards to licensing.

3769-17-33 defines suspension of a horse.

3769-17-34 defines return of purse monies as a result of suspensions.

3769-17-35 defines improper language used between licensees and racing officials.

3769-17-38 defines fraudulent practices.

3769-17-39 defines who may be denied admission to a racing facility.

3769-17-40 defines how objections are made.

3769-17-43 defines how a disqualification affects purse redistribution.

3769-17-99 defines penalties the Ohio State Racing Commission may impose.

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, the commission is the only entity that regulates horse racing in Ohio.

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

The Commission is the only entity that regulates horse racing in Ohio. The Commission is charged with ensuring the integrity of horse racing in this state. Administrative Rules are promulgated pursuant to the Commission's statutory obligation to regulate this industry.

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)?**

These regulations protect race participants and the wagering public by outlining the requirements for owners, trainers and drivers who engage in harness racing of the Standardbred racehorse in Ohio.

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

These regulations have been in place for some time and the Commission believes the success of the regulation has been demonstrated and qualifications met in order to conduct races on a fair and level playing field.

Development of the Regulation

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

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 pertaining to starting. As these rules have been in existence, in their current form, for decades, the Commission voted to submit the rules at a public business meeting.

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

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These rules were provided to the industry and comments were received for suggested changes. These are rules the commission chose not to change based on suggestions by the stakeholders.

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 these rules, only the suggestions and comments of the stakeholders who have been deeply immersed in the horseracing industry in Ohio.

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?

No alternative regulations were considered as these rules have been in existence for several years and no changes were found to be warranted.

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

No, these regulations require permit holders, owners, trainers, and drivers to follow a consistent set of rules for starting.

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 agency regulate horse racing in Ohio, 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.

The regulations have been implemented for several years to all commercial tracks in Ohio and no suggested changes were voiced by the stakeholders.

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 the seven commercial race track 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

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3769-17-01 The adverse impact is the cost to owners, trainers and driver to be licensed and the cost to obtain a workman's compensation policy which can run into the hundreds and thousands of dollars.

3769-17-02 The adverse impact is the cost of the licensing requirements for owners involved in corporations, partnerships and syndicates.

3769-17-03 The adverse impact is the time it takes the owner or trainer to submit a written notice to the commission for purposes of licensing an authorized agent.

3769-17-04 The adverse impact is the time it takes for the substitute trainer to submit a written notice to the stewards that he/she shall be taking responsibility for horses being trained.

3769-17-05 The adverse effect is the time and cost borne by drivers to have a physical examination.

3769-17-06 The adverse effect is when a driver must drive his own horse in a race that include a horse of higher quality that he had previously been driving in other races. His ability to make money is thus compromised.

3769-17-07 The adverse effect is when an owner, trainer or driver wagers against their own horse in a race in which they are participating, and are thus subject to fines and/or suspensions.

3769-17-08 The adverse effect occurs an owner, trainer and driver is caught exchanging information during the races, and fined and/or suspended.

3769-17-09 The only adverse effect of a safety helmet is the cost, otherwise it can be a life saver.

3769-17-09.1 The only adverse effect of safety reins is the cost, otherwise they can be a life saver and help to prevent a serious accident.

3769-17-10 The only adverse effect is the cost of driver's colors.

3769-17-11 The only adverse effect occurs when drivers do not follow defined driving rules, resulting in a fine and/or suspension.

3769-17-12 The adverse effect is when the judges fail to recognize foul driving, determine the extent of disqualification and placement of horses.

3769-17-13 The adverse impact regarding complaints against officials is the time it takes to submit the complaint in writing to the Ohio State Racing Commission.

3769-17-14 The adverse impact for an owner or trainer who does not name a driver is that the stewards may choose a driver of equal or lesser talent.

3769-17-15 The adverse impact when a horse fails to finish the race is that horse is declared a non-starter and any money earned returned and redistributed to the other contestants.

3769-17-17 The adverse impact in regards to use of the whip is to the wagering public who may not understand the full implications of the rules and thus wager less on races when they deem a driver to be not trying, when in fact, said driver is following the use of whip rules.

3769-17-18 The adverse impact of brutal use of the whip is to the driver, who may be fined and/or suspended.

3769-17-19 The adverse impact is the time it takes between qualifying a horse on/off hobbles in regards to down time between races.

3769-17-20 The adverse impact could be to the driver who, if he fails to follow the rules herein, could be fined and/or suspended. As well, an adverse impact would be to the trainer of the horse, who if he has made two breaks of gait in consecutive races, must requalify, necessitating down time and costing the owner and trainer significant amounts of money.

3769-17-21 The adverse impact of a fraudulent breaks is to the driver who could be fined and/or suspended for allowing his horse purposely to go off stride, as well as to the owner of the horse, as the horse risks injuring himself/herself whenever they break gait.

3769-17-22 The adverse impact of recording a winning horse's race time is only if that horse is disqualified and the horse that is moved up must have his /her time determined by the photo finish or an electric timing device, which could take a considerable amount of time and effort.

3769-17-23 The adverse impact for a judge's responsibility to call out breaks made during a race is to the clerk of the course, who must note the break and make a character of it in writing.

3769-17-24 The adverse time in between heats is to the horsemen and the wagering public, who must wait no less than 40 minutes from the first to the second heat and so forth.

3769-17-25 The adverse impact for time allowed if an accident occurs, is to the horsemen who have their horses prepared and are waiting to start in the following race.

3769-17-26 The adverse impact for a driver who is not seated at the end of a race would mean that he's likely laying on the racetrack and possibly injured after being unseated.

3769-17-27 The adverse impact is the cost of wheel disks and mud fenders.

3769-17-28 The adverse effect when a horse falls or gets loose on the track is to the horse regarding possible injury and to the driver and bystanders who make get injured in some fashion.

3769-17-29 The adverse effect on disorderly conduct is the fines and/or suspensions on a person who violates this common sense rule.

3769-17-30 The adverse impact is suspensions stall the ability of trainers and drivers to earn a living.

3769-17-31 The adverse effect of minor penalties on future engagements affects drivers in regards to driving in stake races and extending their minor penalties after such engagements.

3769-17-32 The adverse effect regarding the terms of reciprocity in licensing is only to those individuals who have been suspended or ruled off in other jurisdictions, thus, denying them the ability to make a living at the Ohio racetracks.

3769-17-33 The adverse is the time that a horse will not be allowed to race and have the opportunity to earn money, while his daily training bills are not suspended, costing his connections a great deal of money.

3769-17-34 The adverse impact is to the person who must return purse monies as a result of suspensions.

3769-17-35 The adverse impact is to a person who has used improper language to racing officials in that he/she could be ejected, fined or suspended from the grounds of a racing facility.

3769-17-38 The adverse effect is to the wagering public, who is being defrauded by a corrupt individual within the horse racing industry.

3769-17-39 The adverse impact is to the suspended individual, who, upon being denied admission to a racing facility, is denied his/her ability to earn a living.

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3769-17-40 The adverse impact is the time it takes to place a written objections.

3769-17-43 The adverse impact of a disqualification affects the owner, trainer and driver when a purse is redistributed.

3769-17-99 The adverse impact is to the owners, trainers and drivers in fines and/or suspensions that could be assessed based on the penalty perpetrated and could be into the thousands of dollars.

c. Quantify the expected adverse impact from the regulation.

3769-17-01 The cost to owners, trainers and driver to be licensed and to obtain a workman's compensation policy can be less than one hundred dollars and more than one thousands dollars.

3769-17-02 The cost of the licensing requirements for owners involved in corporations, partnerships and syndicates can be hundreds of dollars.

3769-17-03 It could take an hour or more for an owner or trainer to submit a written notice to the commission for purposes of licensing an authorized agent.

3769-17-04 It could take an hour or more for the substitute trainer to submit a written notice to the stewards that he/she shall be taking responsibility for horses being trained.

3769-17-05 It could take several hours and one hundred dollars or more for drivers to have a physical examination.

3769-17-06 A driver typically makes five per cent of whatever a horse earns, therefore, driving a lesser quality horse means a driver will likely earn less money.

3769-17-07 When an owner, trainer or driver wagers against their own horse in a race in which they are participating, they could be subject to fines of hundreds to thousands of dollars and/or suspensions which would prevent their horses from racing and earning money to pay training bills.

3769-17-08 When an owner, trainer and driver is caught exchanging information during the races, they could be subject to fines of hundreds to thousands of dollars and/or suspensions which would prevent their horses from racing and earning money to pay training bills.

3769-17-09 The cost of a safety helmet is \$350 and upward.

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3769-17-09.1 The cost of safety reins is \$75 and upward.

3769-17-10 The cost of driver's colors can be \$300 and upward.

3769-17-11 When drivers do not follow defined driving rules they could be subject to fines of hundreds to thousands of dollars and/or suspensions.

3769-17-12 When judges fail to recognize foul driving, determine the extent of disqualification and placement of horses, it sends a negative effect to the wagering public and compromises the integrity of the horse racing industry.

3769-17-13 It may take an hour or more to submit a complaint in writing to the Ohio State Racing Commission.

3769-17-14 An owner or trainer who does not name a driver risks being assigned a driver of lesser talent, which may compromise his/her horse's ability to earn money, costing them anywhere from hundreds to thousands of dollars..

3769-17-15 When a horse fails to finish the race and is declared a non-starter and any money earned returned and redistributed to the other contestants, it could cost the owner, trainer and rider hundreds to thousands of dollars.

3769-17-17 A driver who does not follow use of whip rules could be fined hundreds or thousands of dollars and be suspended, which would limit his ability to earn a living.

3769-17-18 A driver using his whip brutally on a horse could be fined and/or suspended, costing him hundreds to thousands of dollars as well as time off from work.

3769-17-19 Qualifying a horse on/off hobbles requires down time between events and thus places a greater financial burden on the horse's owner and trainer ranging from hundreds to thousands of dollars.

3769-17-20 A driver who fails to follow the rules herein, could be fined hundreds to thousands of dollars and/or be suspended. The trainer and owner of the horse will also lose significant amounts of money during this down time, ranging from hundreds to thousands of dollars.

3769-17-21 A horse becoming injured from making a fraudulent break could cost the owner thousands of dollars in veterinary bills, while the driver could be fined from hundreds to thousands of dollars and be suspended.

3769-17-22 A winning horse being disqualified and necessitating another horse being moved up could take an hour or more in establishing a new winning time via photo finish or an electric timing device.

3769-17-23 A judge calling out breaks made during a race is to the clerk of the course, usually occurs within two minutes or less.

3769-17-24 The wait time between heats must be no less than 40 minutes from the first to the second heat.

3769-17-25 If an accident occurs, sometimes the wait time can be significant—of 30 minute to an hour or more—depending on the severity of the accident, and this places a great burden on horsemen who have their horses prepared and are waiting to start in the following race.

3769-17-26 A driver who has been unseated before the end of a race risks injury and possible down time of days to weeks to month to recover and thus, his ability to earn a living is compromised.

3769-17-27 The cost of wheel disks and mud fenders can range from \$150 and upward.

3769-17-28 When a horse falls or gets loose on the track the possible injury to himself, the driver and bystanders could cost the owner thousands of dollars in veterinary and/or medical bills.

3769-17-29 When a person engages in disorderly conduct the fines and/or suspensions could range from hundreds to thousands of dollars.

3769-17-30 Trainers and drivers who are suspended lose the ability to earn hundreds to thousands of dollars.

3769-17-31 Drivers with minor penalties on future engagements may lose the ability to earn hundreds to thousands of dollars from missing driving opportunities.

3769-17-32 The cost of reciprocity in regards to licensing for those individuals who have been suspended or ruled off in other jurisdictions, thus, denying them the ability to make a living at the Ohio racetracks, can cost them hundreds to thousands of dollars.

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3769-17-33 A horse not be allowed to race does not have the opportunity to earn money, while his daily training bills are not suspended, costing his connections hundreds to thousands of dollars.

3769-17-34 Purses can be range from hundreds to thousands of dollars.

3769-17-35 A person who has used improper language to racing officials and has been ejected, fined or suspended from the grounds of a racing facility loses the ability to earn hundreds to thousands of dollars from training horses.

3769-17-38 The wagering public, who finds they have been defrauded by a corrupt individual within the horse racing industry, is less likely in the future to wager on horse racing, thus impacting the betting handle from which the purses are derived, and therefore a drop in purses could occur.

3769-17-39 A suspended individual, who, upon being denied admission to a racing facility, loses the ability to earn hundreds to thousands of dollars via training racehorses.

3769-17-40 It might take one to two hours to write an objection(s).

3769-17-43 A disqualification can affects the owner, trainer and driver anywhere from hundreds to thousands of dollars.

3769-17-99 Owners, trainers and drivers who are fined and/or suspended could incur thousands of dollars in training costs and fees.

3769-17-99 Fines in the hundreds and thousands of dollars are imposed on those persons not complying with Ohio State Racing Commission rules which can several compromise their ability to make a living and maintain their horses/stable for racing purposes.

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

3769-17-01 The adverse impact of the cost to owners, trainers and drivers to be licensed and to obtain a workman's compensation policy is justified to ensure that all participants race under the same integrity umbrella.

3769-17-02 The adverse impact of the cost of the licensing requirements for owners involved in corporations, partnerships and syndicates is justified to ensure all participants race under the same integrity umbrella.

3769-17-03 The adverse impact is justified as the commission requires knowledge of which person is authorized to work as an authorized agent.

3769-17-04 The adverse impact is justified as the stewards need to be kept informed of who is responsible for horses being trained.

3769-17-05 The adverse impact is justified as driver have to be in top physical condition to drive horses in a safe manner.

3769-17-06 The adverse impact is justified to ensure the integrity of racing.

3769-17-07 The adverse impact is justified to ensure the integrity of racing.

3769-17-08 The adverse impact is justified to ensure the integrity of racing.

3769-17-09 The adverse impact is justified to ensure safety of all participants.

3769-17-09.1 The adverse impact is justified to ensure safety of all participants.

3769-17-10 The adverse impact is justified to ensure the integrity of racing.

3769-17-11 The adverse impact is justified to ensure all drivers follow defined driving rules.

3769-17-12 The adverse impact is justified to ensure the integrity of the horse racing industry.

3769-17-13 The adverse impact is justified in order to submit a complaint in writing to the Ohio State Racing Commission.

3769-17-14 The adverse impact is justified if the owner or trainer is not able to name a driver themselves, so as to ensure the integrity of racing.

3769-17-15 The adverse impact is justified to ensure the integrity of racing.

3769-17-17 The adverse impact is justified to ensure the integrity of racing.

3769-17-18 The adverse impact is justified to ensure the integrity of racing.

3769-17-19 The adverse impact is justified to ensure the integrity of racing.

3769-17-20 The adverse impact is justified to ensure the integrity of racing.

3769-17-21 The adverse impact is justified to ensure the integrity of racing.

3769-17-22 The adverse impact is justified to ensure the integrity of racing.

3769-17-23 The adverse impact is justified to ensure the integrity of racing.

3769-17-24 The adverse impact is justified to ensure the integrity of racing and to give horses the proper time to cool down, refresh and relax between races.

3769-17-25 The adverse impact is justified to enable a back-up ambulance to be available for the races.

3769-17-26 The adverse impact is justified to ensure the safety of all participants and the integrity of racing in the eyes of the wagering public.

3769-17-27 The adverse impact is justified in order to have an even playing field in racing.

3769-17-28 The adverse impact is justified to ensure the integrity of racing.

3769-17-29 The adverse impact is justified to ensure the integrity of racing.

3769-17-30 The adverse impact is justified to ensure the integrity of racing.

3769-17-31 The adverse impact is justified to ensure the integrity of racing.

3769-17-32 The adverse impact is justified to ensure the integrity of racing.

3769-17-33 The adverse impact is justified to ensure the integrity of racing.

3769-17-34 The adverse impact is justified to ensure the integrity of racing.

3769-17-35 The adverse impact is justified to ensure the integrity of racing.

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3769-17-38 The adverse impact is justified to ensure the integrity of racing.

3769-17-39 The adverse impact is justified to ensure the integrity of racing.

3769-17-40 The adverse impact is justified to ensure an objection is done in the correct manner.

3769-17-43 The adverse impact is justified to ensure the integrity of racing.

3769-17-99 The adverse impact is justified to ensure the integrity of racing.

3769-17-99 The adverse impact is justified to ensure the highest level of integrity of racing by the Ohio State Racing Commission.

Regulatory Flexibility

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

No, this regulation applies to only seven commercial race track permit holders; therefore an exemption for small businesses is not applicable.

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.racing.ohio.gov

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900

The Executive Director at bill.crawford@rc.state.oh.us