

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 17 New and Amended Rules

Rule Number(s): New Rules 3769-17-36, 37, 41, 42, Amended Rules 3769-17-01, No
Change Rules 3769-17-11, 15,16

Date: September 24, 2018

These rules are new, amended and no change rules and may be found by accessing the Commission's website at 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Rescinded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.

3769-17-01 requires an owner to be licensed before his/her horse can race. The proposed change would require both the owner and trainer to have workers compensation coverage for his/her employees.

3769-17-11 states the driver requirements during a race

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3769-17-15 Unless a horse is interfered with or has broken equipment, the horse must finish the race.

3769-17-16 outlines improper driver conduct during a race

3769-17-36 requires a fine to be paid to the stewards within forty-eight hours.

3769-17-37 requires a person to pay their own fine. The proposed change would have the fine money deposited into a commission account not a permit holder account.

3769-17-41 The procedure to appeal a decision of the judges. The proposed change would remove the five-hundred-dollar deposit requirement.

3769-17-42 A penalty is required if a person pays with a bad check and shows irresponsible financial practices. The proposed change would remove the payment of witness costs from the five-hundred-dollar deposit.

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.

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)?

3769-17-01 requires a license to be an owner. The owner and trainer must comply with Ohio law by having workers compensation coverage

3769-17-11 there is a need to have rules during a race to ensure a safe and fair race.

3769-17-15 the horse must finish a race and should not stop of the track which could affect other horses

3769-17-16 there is a need to limit improper conduct during a race.

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3769-17-36 There needs to be a deadline to pay a fine

3769-17-37 A licensee is personally responsible for any sanctions if he/she violates the rules of racing.

3769-17-41 The procedure to appeal a decision of the stewards.

3769-17-42 A penalty is required if a person pays with a bad check and shows irresponsible financial practices

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

The Commission has employees at all race tracks and can monitor these changes so racing operations run smoothly and the races are conducted on a fair and safe manner.

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.

8. 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 stakeholders and comments were received for suggested changes. The stakeholders recommended changes to 3769-17-01, 3769-7-04, 3769-7-13, 3769-7-25 and the commission agreed.

The commission recommended changes to 3769-17-36, 3769-17-37, 3769-17-41 and 3769-17-42. These changes reduce the burden on the licensees.

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.

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 Ohio Harness Horsemen Association recommended changes to 3769-17-11, 3769-17-15 and 3769-17-16. It claimed provisions in these rules conflicted with 3769-17-17. The

Commission reviewed the proposed changes and did not believe these changes were necessary to reduce any possible confusion regarding these rules.

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.

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 Commission has employees at all the commercial tracks who can ensure these regulations are applied consistently and predictably for the regulated community

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

3769-17-01 The license fee for an owner's license is fifty dollars.

3769-17-11 A driver who does not follow these driving rules could be fined and be suspended.

3769-17-15 The horse could be limited in its ability to race if it does not finish its previous race

3769-17-16 A driver who does not follow these rules could be fined and be suspended.

3769-17-36 A fine must be paid within forty-eight hours if not paid the person would be automatically suspended.

3769-17-37 The licensee could be fined or suspended for paying the fine of another person.

3769-17-41 There is no adverse impact. The five-hundred-dollar deposit requirement has been removed.

3769-17-42 A person is fined fifty dollars for writing a bad check to the commission or a permit holder

c. Quantify the expected adverse impact from the regulation.

3769-17-01 The license fee for an owner's license is fifty dollars. The cost to the owner and/or trainer would depend on the number of employees that must be provided workers compensation coverage.

3769-17-11 A driver could be fined up to one thousand dollars and suspended up to one year.

3769-17-15 A horse may not be able to race which could cause it to lose purse money. A purse is between five and ten thousand dollars.

3769-17-16 A driver could be fined up to one thousand dollars and suspended up to one year.

3769-17-36 A person is suspended until the fine is paid.

3769-17-37 A person could be fined up to one thousand dollars and suspended up to one year.

3769-17-41 There is no adverse impact.

3769-17-42 A person is fined fifty dollars for writing a bad check to the commission or a permit holder

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

3769-17-01 The license fee is minimal. Workers compensation coverage is required under Ohio law

3769-17-11 These rules ensure the race is conducted in a safe and fair manner

3769-17-15 A horse must finish because the public has placed wagers on these horses.

3769-17-16 These rules ensure the race is conducted in a safe and fair manner

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3769-17-36 There must be a definite time to pay a fine

3769-17-37 A person should be personally responsible if he/she violates the rules of racing.

3769-17-41 There is no adverse impact.

3769-17-42. There is a deterrent to not issue a check with insufficient funds

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.racingohio.net

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900

The Deputy Director and Legal Counsel at Michael.Rzymek@racing.ohio.gov