

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 18 No change Rules 2016

Rule Number(s): 3769-18-03, 04, 06, 07, 09, 10, 11, 12, 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 LAWriter at <http://codes.ohio.gov/oac/3769-168>.

Rule Type:

New

Amended

5-Year Review

Rescinded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.

3769-18-03 explains who must be present when a urine or blood sample is drawn from their horse by a licensed, state-approved veterinarian.

3769-18-04 defines a "nerved horse," and trainer responsibility to report having a horse nerved by a licensed veterinarian.

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3769-18-06 defines what a “controlled substance” is and/or “prohibited narcotics” found on a human being who is licensed to participate in horseracing in the state of Ohio..

3769-18-07 defines “prohibited possessions,” i.e., a nasogastric tube, drugs, chemicals which may be used as stimulants, hypodermic syringes or hypodermic needles or any other instrument which may be used for injection, or batteries or any other electrical or mechanical instrument which may be used to affect the speed or actions of a horse.

3769-18-09 defines abuse of prohibited drugs.

3769-18-10 defines the responsibility of the trainer and veterinarian to report the death of a horse.

3769-18-11 defines disposal and autopsy of a deceased horse.

3769-18-12 defines the independent analysis of the official specimen of a deceased horse.

3769-18-99 describes when judges or the Racing Commission has the power to fine or suspend licenses or permits for violation of the rules in this chapter; the person penalized may appeal the decision to the Racing Commission.

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 claiming and the requirement for starting.

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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.

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 the various horsemen's associations who are required to implement and/or follow these rules pertaining to claiming and 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?

These rules were provided to the industry and comments were received for suggested changes. These are the rules which the commission chose not to change.

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?

As these are no change rules, no additional scientific data was used to develop the 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?

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, drivers and veterinarians to follow a consistent set of rules for drugs and death of a horse.

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.

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The regulations have been implemented for several years to all commercial tracks in Ohio.

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 who own the racetracks and licensees who participate in horse racing in Ohio.

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

3769-18-03 The owner, trainer, groom or other representative must be present in the state testing barn when a test sample is taken from the horse, and must remain until the test sample is sealed. The official tag attached to a test sample shall be signed by the owner, trainer, groom or other representative as witness to the taking of such test sample. In most cases, the owner, trainer or groom must be present with the horse several hours after the race to be present for these sample tests. Willful failure to be present at, or a refusal to allow, or any act or threat to impede or prevent or otherwise interfere with, the taking of any such test sample shall subject the licensee guilty thereof to immediate suspension by the judges, and the matter shall be referred to the commission for its consideration.

3769-18-04 The adverse effect of a nerved horse is the cost to the owner and time for the trainer. As well, a horse that has been nerved must have this noted on his/her registration papers. This would adversely affect the possible future sale of the horse, as many trainers will shy away from purchasing a nerved horse.

3769-18-06 The adverse impact of this rule is that a person found with a prohibited substance or narcotic will no longer be able to participate in horse racing and could be fined and/or suspended by the judges.

3769-18-07 The adverse impact of this rule is a person found with these types of illegal paraphernalia will no longer be able to participate in horse racing and could be fined and/or suspended by the judges.

3769-18-09 The adverse impact to licensees is that a person or persons found to be using prohibited substances or narcotics will no longer be able to participate in horse racing and could be fined and/or suspended by the judges.

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3769-18-10 The adverse impact of this rule is the time it takes for the veterinarian and/or trainer to make a report on the death of a horse and that the report must be made within 24 hours after the death of the horse.

3769-18-11 The adverse impact of this rule is that if the horse dies and an autopsy is not required, then the permit holder and/or the trainer and/or owner must pay the cost of a rendering service to have the deceased horse removed from the grounds. In the event an autopsy is requested by the state veterinarian, then the cost of the autopsy will be borne by the commission.

3769-18-12 The adverse impact is the time it takes for the lab to perform all the tests necessary to determine the death of the horse and the cost that a license might incur should they choose to request a split sample from an outside laboratory.

3769-18-99 The adverse impact of this rule is amount of a fine that may be incurred by a person and/or suspension, which may deter the trainer from his/her ability to earn a living.

c. Quantify the expected adverse impact from the regulation.

3769-18-03 Time is a consideration for the person(s) witnessing the sealing of samples and should no trainer or owner be present when the sample is taken, the result could be a fine and/or suspension, which could therefore see the trainer or owner incur significant costs.

3769-18-04 The cost of a license varies from \$25 to \$50. The cost of a completed fingerprint card is \$46.

3769-18-06 A person found with a prohibited substance or narcotic could be fined a significant amount of money and/or be suspended by the judges, thus possibly losing the ability to earn a living.

3769-18-07 A person found with these types of illegal paraphernalia could be fined a significant amount of money and/or be suspended by the judges, thus possibly losing the ability to earn a living.

3769-18-09 A person or persons found to be using prohibited substances or narcotics will no longer be able to participate in horse racing and could be fined a significant amount of money and/or could be suspended by the judges, thus possibly losing the ability to earn a living.

3769-18-10 This impact is quantified by the time it takes for the veterinarian and/or trainer to make a report on the death of a horse and possibly the emotional and monetary impact that the

death of the horse could have on the trainer. Not only would the trainer lose the bond that he/she established with the horse on a daily basis, but the trainer would also lose a significant source of his/her income.

3769-18-11 The impact of cost an autopsy is on the commission if one is requested by the state veterinarian, otherwise the impact would be on either the permit holder and/or trainer and/or owner who must pay a rendering service to have the horse removed from the grounds.

3769-18-12 The impact would weigh heavily on the trainer and/or owner if they wanted a split sample from an outside laboratory.

3769-18-99 The impact would be the amount of money and/or time that the judges or Racing Commission impose in a fine or suspension to a licensee for violation of the rules in this chapter.

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

3769-18-03 The adverse impact is justified because this rule allows for racing to be conducted on a level playing field, thus ensuring the integrity of the sport to the wagering public.

3769-18-04 The adverse impact is justified because this rule ensures that only individuals with the proper training and experience participate in horse racing.

3769-18-06 The adverse impact is justified because there should be no illegal medications in use by either humans or equines in horse racing. Policing the industry allows for racing to be conducted on a level playing field, thus ensuring the integrity of the sport to the wagering public.

3769-18-07 The adverse impact is justified because this rule ensures no participants are either using or giving their horses illegal medications. Policing the industry allows for racing to be conducted on a level playing field, thus ensuring the integrity of the sport to the wagering public.

3769-18-10 The adverse impact is justified because this rule ensures that a proper report is made when a horse dies on the racetrack.

3769-18-11 The adverse impact is justified because this rule ensures racing is conducted on a level playing field, thus ensuring the integrity of the sport to the wagering public.

3769-18-12 The adverse impact is justified because it allows for all parties to have a fair chance to obtain a second opinion in regards to samples obtained for their horses. This exemplifies that

racing is conducted on a level playing field, thus ensuring the integrity of the sport to the wagering public.

3769-18-99 This impact is justified because this rule deters licensees and permit holders from violating the rules of this chapter. These rules are essential in preserving the fairness of racing for race participants and the wagering public.

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