

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 18 No Change Rules

Rule Number(s): 3769-18—01,02, 03, 04, 06, 07, 09, 10, 11, 12, 99

Date: March 22, 2018

These rules are no-change rules and may be found by accessing the Commission's website at www.racingohio.net

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Rescinded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.

3769-8-01 prohibits or controls the use of drugs and medications in a horse.

3769-8-02 states the trainer is responsible for the condition of a horse entered in a race

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

3769-8-04 defines a “nerved horse,” and owner and/or trainer responsibility to report these procedures on the registration certificate and to the stewards.

3769-18-06 Any licensee found with any controlled substance or narcotic drug in his/her possession while on the premises of any permit holder shall be fined and/or suspended by the stewards.

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 the commission regulates the use of any drug of abuse, by any licensee who is responsible for the conduct of a race or whose duties include the training, exercising, riding or caring for a horse. It includes all track employees who, while at work, operates a mechanical device of any type which could cause injury to the operator or to others.

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

3769-8-11 the Commission may order and pay for an autopsy of a deceased horse.

3769-8-12 allows the licensee to obtain an independent analysis of the official specimen by an independent laboratory before sanctions can be imposed on a licensee.

3769-18-99 describes when judges or the commission has the authority to fine or suspend licenses or permit holders 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. There is no federal program involved with this rule.

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

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There is no federal program, rule or requirement involved with these rules

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)?

It is the intent of these rules is to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants through the prohibition or control of drugs, medications and substances foreign to the natural horse. The Commission is charged with ensuring the integrity of horse racing in this state.

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.

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

The commission sent these rules to the stakeholders to seek comments. The stakeholders and the Commission are continuing to discuss these rules as part of a medication forum.

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?

The scientific data was from the uniform classification guidelines of foreign substances developed by the association of racing commissioners international.

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?

After the stakeholders reviewed the rules and no alternative regulations were suggested.

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

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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.

The regulations have been implemented for several years for all licensees.

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

3769-18-01 The rule limits medications that can be administered to a horse. If a licensee violates the rule he/she can be fined, suspended or lose the purse.

3769-18-02 The trainer can be fined or suspended for violations of this chapter.

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. The owner, trainer or groom can be fined and/or suspended if they impede the taking of a sample.

3769-18-04 The licensee can be fined and/or suspended.

3769-18-06 The adverse impact of this rule is that a person found with a prohibited substance or narcotic could be fined and/or suspended by the judges.

3769-18-07 Any licensee can be fined and/or suspended by the judges.

3769-18-09 The licensees 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.

3769-18-11 There is no adverse impact on business.

3769-18-12 The cost of the independent analysis is borne by the licensee who requests the analysis.

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.

3769-18-01 The rule limits the medications that can be in a horse. Depending upon the drug, a licensee could receive a warning to a year suspension and a fine from one hundred to one thousand dollars

3769-18-02 The trainer may be fined or suspended for violation of the rules of this chapter. Depending upon the drug, a licensee could receive a warning to a year suspension

3769-18-03 It will take up to two hours to obtain all the samples.

3769-18-04 There is a minimal time requirement to inform race officials and others that the horse was given nerve medication.

3769-18-06 A person found with these types of illegal paraphernalia could be fined and/or be suspended by the judges. The person could be given a warning to a 15-day suspension.

3769-18-07 A person found with a prohibited substance or narcotic could be fined up to a thousand dollars and/or be suspended for a year.

3769-18-09 A person found with a prohibited substance or narcotic could be fined up to a thousand dollars and/or suspended for a year

3769-8-10 There is a minimal time requirement for the veterinarian and/or trainer to make a report on the death of a horse.

3769-18-11 There is no adverse impact. The cost of the autopsy is absorbed by the commission.

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3769-18-12 It costs seventy-five dollars to send the sample to an independent laboratory. The cost of the test is determined between the independent laboratory and the licensee.

3769-18-99 The licensee can be fined up to one thousand dollars and suspended for one year.

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

3769-18-01 The rule is justified to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants through the prohibition or control of drugs, medications and substances foreign to the natural horse

3769-18-02 The rule is justified to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants by holding the trainer accountable.

3769-18-03 This rule is justified to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants by making sure test samples are taken.

3769-18-04 This rule to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants by informing people that these procedures have been performed on a horse.

3769-18-06 The adverse impact is justified because there should be no controlled substances used by licensees. This rule allows for racing to be conducted in a safe manner 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.

3769-18-09 The adverse impact is justified because this rule allows for racing to be conducted in a safe manner 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 permit holder's premises.

3769-18-11 There is no adverse impact on business.

3769-18-12 The adverse impact is justified because it allows the licensees to have a laboratory perform a retest of the sample.

3769-18-99 The rule is justified to protect the integrity of horse racing, guard the health of the horse, and safeguard the interest of the public and racing participants

Regulatory Flexibility

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

No, this regulation applies to every person that is involved in horse racing. There is no ability to exempt small businesses.

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.net

The Commission phone number at 614-779-0270

The Commission facsimile number at 614-466-1900

The Deputy Director Michael Rzymek at Michael.Rzymek@racing.ohio.gov