

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 17 New Rules

Rule Number(s): 3769-17-36, 3769-17-37, 3769-17-41, 3769-17-42

Date: May 2017

These are new rules & may be found by accessing the Commission's website at [www.racingohio.nt](http://www.racingohio.nt) or through LAWriter at <http://codes.ohio.gov/oac/3769-6>.

**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Rescinded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.

3769-17-36 defines the payment of fines.

3769-17-37 defines who must pay their own fines.

3769-17-41 defines how appeals are made to the commission.

3769-17-42 defines how fraudulent checks are handled by the commission and permit holders.

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- 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 licensee's in regards to the payment of fines and handling of checks.

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

This regulation has been in place for some time and the Commission believes the success of the regulation has been demonstrated but these rules were amended for clarification.

### **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 racing conduct. 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, and are rules which the commission chose to change by more than fifty per cent.

- 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?**

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No additional scientific data was used to develop the rule as it was edited for clarification.

**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?**

Although these rules have been in existence for several years, more than fifty per cent of each rule required changes in order to be consistent and ensure the integrity of racing.

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

No, this regulation requires permit holders, owners, trainers, and drivers to follow a consistent set of rules for racing conduct.

**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 regulation has been implemented for several years to all commercial tracks in Ohio, but required more than fifth percent of changes to ensure the integrity of racing.

**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**

3769-17-36 The adverse impact is to the licensee who must pay a fine, which could range from hundreds to thousands of dollars.

3769-17-37 The adverse impact is to the licensee who must pay the fine themselves, as no other person is allowed to pay a fine for another, meaning that the cost of the fine must be borne by the licensee.

3769-17-41 The adverse impact is to the time incurred by the licensee, who has forty-eight hours to appeal to the commission in writing after a judge's ruling.

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3769-17-42 The adverse effect is to the licensee who shall be suspended from racing upon writing a fraudulent check to the commission or any of the seven permit holders.

**c. Quantify the expected adverse impact from the regulation.**

3769-17-36 The adverse impact is to the licensee, who could pay fines upwards of hundreds or possibly thousands of dollars.

3769-17-37 The adverse impact is to the licensee who could pay fines upwards of hundreds or possibly thousands of dollars.

3769-17-41 The adverse impact is to the licensee who must appeal to the commission within the forty-eight hour time limit which could possibly effect or disrupt his/her ability normal business routines and activities.

3769-17-42 The adverse impact is to the licensee who will be denied racing privileges and therefore the ability to earn a living if they are suspended for writing a bad check.

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

3769-17-36 The adverse impact is justified because this rule ensures the safety and fairness of the sport for racing participants and the wagering public by having rules in place that when broken, dictate that certain penalties are imposed.

3769-17-37 The adverse impact is justified because this rule ensures that each person is responsible for their own destiny and behavior.

3769-17-41 The adverse impact is justified because it allows a person who feels there are innocent of an infraction the opportunity to appeal on their behalf.

3769-17-42 The adverse impact is justified because writing a bad check is indicative of a nefarious nature by a licensee and therefore someone who does not have the best interest of racing at heart.

**Regulatory Flexibility**

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**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](http://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](mailto:bill.crawford@rc.state.oh.us)

3769-17-36

**Payment of fines.**

(A) All fines imposed shall be paid to the judges. Any person failing to pay a fine within forty-eight hours shall be automatically suspended and may be referred to the commission for further action unless an appeal has been filed with the commission. When the appeal is terminated and the person is to pay a fine, the fine must be paid within forty-eight hours to the judges. If the fine is not paid within forty-eight hours, the person is automatically suspended and may be referred to the commission for further action.

\*\*\* DRAFT - NOT YET FILED \*\*\*

3769-17-37

**Must pay own fine.**

(A) No person shall pay the fine of another. The judges shall remit all money received in fines to the commission. The commission may from time to time make disbursements for any worthy purpose pertinent to racing.

3769-17-41

Appeal to commission.

(A) Any licensee fined, suspended, expelled or any other penalty imposed by any judge's ruling may appeal to the commission for a review of the decision. Such appeals shall be made in writing and must be filed with the presiding judge within forty-eight hours after notification of the ruling. Such forty-eight-hour period shall not include any day the judges are not in attendance at their office. The chairman of the commission may appoint a hearing officer to hear such appeals.

\*\*\* DRAFT - NOT YET FILED \*\*\*

3769-17-42

Checks.

(A) In the event any person, firm, corporation, etc., issues a check to the commission in payment of a license fee or for any other obligation and the check is returned for any reason, whoever issued said check shall be fined a minimum of fifty dollars and shall not be eligible to participate in racing until said check and fine have been paid in full.

(B) In the event any person, firm, corporation, etc., issues a check to a permit holder for an entry fee or any other racing-related matter and the check is returned for any reason, whoever issued said check shall be fined a minimum of fifty dollars and shall not be eligible to participate in racing until said check and fine have been paid in full.