

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 7 Amended Rules

Rule Number(s): 3769-7-01; 3769-7-04

Date: May 2017

These rules are amended and may be found by accessing the Commission's website at <http://www.racingohio.net> or through LA Writer 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Rescinded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.**

3769-7-01 requires permit holders to only allow a horse to start in a race if the owner(s) or lessee(s) have been issued a valid Ohio State Racing Commission license.

3769-7-04 requires owners to have a set of registered racing colors and the permit holders to provide a significant number of matching colored caps for said colors.

**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, lessees and jockeys who want to own and/or ride a horse in a race.

**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 while the Commission believes the success of the regulation has been demonstrated, qualifications must be 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 this rule 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 rules the commission chose to amend based on suggestions by the stakeholders.

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**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 jockeys 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 but changes were made in order to accommodate suggestions and concerns 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**

3769-7-01 Owners and lessees and/or jockeys must pay a fee in order to obtain a valid Ohio State Racing Commission license.

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3769-7-04 Owners must pay to have a set of registered racing colors created, which can cost from \$100 and upward and must pay a fee to the National Jockey Club to register the colors; permit holders must pay to have the matching caps created. Costs could range from between \$50 and \$150.

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

3769-7-01 Owners/lessees and/or jockeys obtaining a valid Ohio State Racing Commission license ensures a level playing field for all involved in racing. The only adverse impact is the cost of the license.

3769-7-04 Requiring owners to have a set of registered racing colors and the permit holders a significant number of matching colored caps for said colors ensures that the wagering public is cognizant of which horses are owned by which persons and being ridden by a specific jockey during a race. This ensure a fair and level playing field. The only adverse impact is the cost of the silks and caps to the people involved in owning and riding.

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

3769-7-01 Everyone who participates in racing must obtain a valid Ohio State Racing Commission license, and this puts all the participants on a level playing field and ensures the public that racing is conducted with the highest level of integrity.

3769-7-04 Owners and their registered colors as well as the permit holders' matching caps puts all the participants on a level playing field and ensures the public that racing is conducted with the highest level of integrity.

**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.

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**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)

3769-7-01

**Owners must be licensed and ~~workers'~~workers compensation.**

(A) No permit holder shall allow any horse to start in a race unless the owner, owners, lessee or lessees of same are licensed or the owner has been issued a reciprocal validation for a current and properly issued owner's license from another state or other racing jurisdiction which has reciprocity with the Ohio state racing commission. Any owner who shall desire to ride his own horse in a race may be issued a jockey's license, at the steward's discretion, but must also secure an owner's license. No applicant shall be issued a jockey's license without meeting the qualifications listed in 3769-7-13.

(B) In addition to all other rules applicable to license as promulgated by the commission, an owner must provide workers compensation coverage in accordance with Ohio law, for all of his or her employees who are connected with racing. Upon request of the commission, the owner must provide satisfactory proof of such workers compensation coverage.

~~(B) In addition to all other rules applicable to license as promulgated by the commission, an owner must provide workers' compensation coverage in accordance with Ohio law, for all of his or her employees who are connected with racing. Upon request of the commission, the owner must provide satisfactory proof of such workers' compensation coverage.~~

3769-7-04

**Registration colors.**

- (A) Each owner shall be entitled to register a set of racing colors without fee other than that which covers the owner's license. Such colors shall not be claimed or used by others except after three years withdrawal from the turf. In thoroughbred racing, no horse shall be allowed to race unless the owner's colors are registered with the stewards and/or Ohio state racing commission. If two conflicting applications are received, priority shall be given to applicants who have their colors registered with the "Jockey Club." An owner's colors shall not be used by a jockey to ride horses owned by other parties. Substitute colors may be permitted for one race only at a meeting. Thereafter a fine up to fifty dollars shall be imposed for each race without proper colors.
- (B) Each permit holder shall provide a sufficient number of jockey caps which will be of colors ~~which~~ that can be blended with the owner's silks; ~~each jockey cap will have a number affixed thereon to coincide with post positions~~; however, an owner can substitute a cap as part of his/her colors, said cap need not have a number affixed thereto.