

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 7 New Rules

Rule Number(s): 3769-7-13; 3769-7-25; 3769-7-35; 3769-7-36; 3769-7-42; 3769-7-44

Date: May 2017

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

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Rescinded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.**

3769-7-13 requires that jockeys procure a license to ride in a race.

37-7-25 requires jockeys to stay in the jockeys quarters until they have fulfilled their riding obligations and mandates who they can communicate with while fulfilling their riding obligations.

3769-7-35 requires how fines are to be paid.

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3769-7-36 mandates that a person must their own fine.

3769-7-42 defines procedures for making an appeal to the commission.

3769-7-44 defines the penalty for fraudulent checks that are paid to the 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 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?**

Previous regulations were in place, however the Commission believes these new 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. These are new rules that the Commission voted to submit 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?**

Similar rules that were in place for some time were provided to the industry and comments were received for suggested changes and the commission chose to create new rules based on suggestions by the stakeholders.

**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 are 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?**

Changes were found to be warranted and thus new rules were created based on input from stakeholders.

**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 duplication will occur since only the commission regulates horse racing in Ohio.

**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.**

These new rules were created for all commercial tracks in Ohio 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**

3769-7-13 Jockeys must pay a fee to obtain a valid Ohio State Racing Commission license in order to be able to ride in races.

37-7-25 Jockeys must stay in the jockeys quarters until they have fulfilled their riding obligations and are restricted in who they can communicate with while fulfilling their riding obligations. This requires their time, which can be from four to eight hours daily.

3769-7-35 Fines and/or suspensions are assessed based on the penalty perpetrated and can be into the thousands of dollars.

3769-7-36 Fines are based on the penalty perpetrated and mandates that a person must their own fine, and that no other person can pay their fine for them.

3769-7-42 The time to make an appeal can vary depending on the nature of the infraction and can cost a licensee lost time at work, and thus diminish his or her ability to earn a living.

3769-7-44 The cost for someone who writes a fraudulent check to the commission is a minimum of fifty dollars.

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

3769-7-13 The only adverse impact is the cost of the license to the jockey.

37-7-25 The only adverse impact is the time required for the jockeys to stay in the jockey's quarters until they have fulfilled their riding obligations and the limitations of who they can communicate with while fulfilling their riding obligations.

3769-7-35 Fines and/or suspensions are assessed based on the penalty perpetrated and can be into the thousands of dollars.

3769-7-36 The adverse impact is the cost of the fine to the person who must pay it.

3769-7-42 The adverse impact is the time to make an appeal, which can vary depending on the nature of the infraction and can cost a licensee lost time at work.

3769-7-44 The adverse impact is the cost for someone who writes a fraudulent check to the commission, which is a minimum of fifty dollars and could be upwards of over one hundred dollars or more.

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

3769-7-13 Requiring jockeys procure a license to ride in a race ensures that only qualified individuals that meet the standards of race riding can compete in races, and puts all the participants on a level playing field and ensures the public that racing is conducted with the highest level of integrity.

37-7-25 Requiring jockeys to stay in the jockey's quarters until they have fulfilled their riding obligations and mandating who they can communicate with while fulfilling their riding obligations puts all the participants on a level playing field and ensures the public that racing is conducted with the highest level of integrity.

3769-7-35 Setting a standard for how fines are to be paid puts all the participants on a level playing field and ensures the public that racing is conducted with the highest level of integrity.

3769-7-36 The intent is justified because it holds the person who created the infraction and thus the fine, responsible for their own actions.

3769-7-42 The intent is justified because the licensee must believe strongly in their own innocence if they are going to the trouble of filling an appeal.

3769-7-44 The intent is justified because a fraudulent check written to the commission, creates a lot of unjustified paperwork for the commission and extra work had the check been good in the first place.

**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?**

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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)

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

3769-7-13

## License required to ride.

(A) No jockey shall be allowed to ride horses on the permit holder's premises during any race meeting unless said jockey has received a license to do so from the commission. Prior to licensing, an applicant shall show competence and demonstrate acceptable riding ability, which may include participation in up to five races with the prior approval of the stewards with the consideration of the recommendations from the starter, the head outrider, and the designated representatives of the jockeys and the horsemen at the track. The demonstration of riding ability is defined at the minimum of:

- (1) Breaking with a horse in company from the starting gate
- (2) Working a horse in company around the turn and down the stretch
- (3) Switching the riding crop from one hand to the other while maintaining control of the horse in a stretch drive
- (4) Causing a horse to switch leads coming out of the turn.

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

3769-7-25

## Report to jockey quarters.

- (A) Jockeys shall report to the jockey's quarters at the time designated by the stewards. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockey's quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled except as approved by the stewards.
- (B) While in the jockey's quarters, jockeys shall have no contact or communication with any person outside the jockey's quarters other than commission staff and officials, and an owner or trainer for whom he/she is riding. Any communication permitted by the stewards may be conducted only in the presence of the clerk of scales or other persons designated by the stewards.
- (C) Once jockeys have fulfilled their riding engagements for the day and have left the jockey's quarters, they shall not be re-admitted to the jockey's quarters until after the entire racing program for that day has been completed, except with the permission of the stewards.

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

3769-7-35

**Payment of fine.**

(A) All fines imposed shall be paid to the stewards. 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 \*\*\*

3769-7-36

**Must pay own fine.**

(A) No person shall pay the fine of another. The stewards 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.

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

3769-7-42

## **Appeal to commission.**

(A) Any licensee fined, suspended, expelled or any other penalty imposed by any stewards' ruling may appeal to hte commission for a review of the decision. Such appeals shall be made in writing and must be filed with the state steward within forty-eight hours after notification of the ruling. Such forty-eight hour period shall not include any day the stewards 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 \*\*\*

3769-7-44

**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 a jockey fee, 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.