

## CHAPTER 3769-11. GENERAL DEFINITIONS

**3769-11-01. General definitions**

Definitions contained in this chapter are parts of the rules of racing prescribed by the Ohio state racing commission. All rules are prescribed pursuant to Chapter 3769. of the Revised Code, hereinafter referred to as the Horse Racing Act. *Effective: 1-1-85; 2-2-08*

**3769-11-02. Race meeting**

A "race meeting" or "meeting" is the period of time for which permission to conduct horse racing has been granted to a permit holder by the commission. *Effective: 1-1-85*

**3769-11-03. Day, month, year**

(A) A "day" means 24 hours ending at midnight; (B) A "month" means a calendar month; (C) A "year" means a calendar year. *Effective: 1-1-85*

**3769-11-04. Permit**

A "permit" is a permit issued by the commission to conduct a parimutuel wagering horse racing meeting in Ohio. *Effective: 8-15-77; 1-1-85*

**3769-11-05. License**

A "license" is a license issued by the Ohio state racing commission. *Effective: 1-1-85*

**3769-11-06. Licensed person required to have a license**

(A) "Licensed person" pertains to any one person who has received a license from the Ohio state racing commission.

(B) A "person required to have a license" pertains to any one whose activities on a permit holder's premises or satellite wagering facility would require such person to be so licensed. *Effective: 1-1-85; 2-2-08*

**3769-11-07. Permit holder/association**

A "permit holder" is a corporation, trust, partnership, limited partnership, association, or person that has been granted a permit to conduct a race meeting. *Effective: 1-1-85; 2-2-08*

**3769-11-08. Recognized meeting**

A "recognized meeting" is a horse racing meeting for which a permit has been issued by the commission or by the racing authority of any other state or foreign country. *Effective: 1-1-85*

**3769-11-09. Ruled off**

(A) "Ruled off" means an individual is denied access to any permit holders' premises as the result of a ruling issued by judges or the commission. *Effective: 1-1-85; 2-2-08*

**3769-11-10. Breakage**

"Breakage" or "breaks" consists of the odd cents of all redistributions to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten. *Effective: 1-1-85*

**3769-11-11. Mutuel field**

A "mutuel field" consists of two or more horses of separate interests grouped together for pari-mutuel wagering. *Effective: 1-1-85*

**3769-11-12. Horse**

"Horse" includes stallion, colt, gelding, ridgling, filly or mare. *Effective: 1-1-85*

**3769-11-13. Standardbred breeder**

The "breeder of a standardbred horse" is the owner or lessee of the mare at the time of mating. *Effective: 1-1-85*

**3769-11-14. Owner**

"Owner" includes part owner, lessor, or lessee, but an interest in the winnings of a horse does not of itself constitute ownership. *Effective: 1-1-85; 2-2-08*

**3769-11-15. Age**

The age of a horse shall be calculated from the first day of January of the year of foaling and shall be established by the horse's official registration papers. *Effective: 1-1-85; 2-2-08; 6-15-19*

**3769-11-16. Maiden**

"Maiden" means a horse that has never won a heat or race at the gait at which it is entered to start and for which a purse is offered. Races or purse money awarded to a horse after the "official sign" has been posted shall not be considered a winning performance or affect status as a maiden. *Effective: 1-1-85*

**3769-11-17. Race**

A "race" is a contest of speed for a purse on any course, in the presence of a judge or judges. *Effective: 1-1-85; 2-2-08*

**3769-11-18. Overnight event**

An "overnight race" is a race for which declarations close not less than two days or more than five days before such race is to be scheduled. *Effective: 1-1-85; 2-2-08*

**3769-11-19. Claiming race**

A "claiming race" is a race in which any horse starting may be claimed for a designated amount in accordance with the rules. *Effective: 1-1-85; 2-2-08*

**3769-11-20. Walk over**

When only horses which are of a non-competing interest start in a race, it constitutes a "walk over." In a stake race a walk over is entitled to all the stake money and forfeits. To claim the purse the entry must start and go once over the course. *Effective: 1-1-85*

**3769-11-21. Futurity**

A "futurity" is a race in which the dam of the competing horse is nominated either when in foal or during the year of foal. *Effective: 1-1-85; 2-2-08*

**3769-11-22. Nominator**

A "nominator" is the person in whose name a horse is entered for a race. *Effective: 1-1-85*

**3769-11-23. Nomination**

A "nomination" is the naming of a horse or in the event of a futurity, the naming of a foal in utero to a certain race or series of races, eligibility of which is conditioned on the payment of a fee at the time of naming and the payment of subsequent sustaining fees and/or starting fees. *Effective: 1-1-85*

**3769-11-24. Arrears**

"Arrears" includes all sums due for entrance money, stakes, fees, fines, and any default incident to the rules of the Ohio state racing commission or to the rules of the racing authority of any other state or country. *Effective: 1-1-85*

**3769-11-25. Entry**

"Entry" can mean any of the following: (A) The announcement of intention to cause or permit a horse to participate in a stated race accompanied by performance of such acts as may be necessary to make such horse eligible to participate; (B) Any horse accepted as a contestant in a stated race; (C) Two or more horses having common ownership or trainer grouped together for the purposes of parimutuel wagering. *Effective: 1-1-85*

**3769-11-26. Scratch**

A horse is "scratched" when the horse is withdrawn from participation in a race, with permission of the judges. *Effective: 1-1-85*

## **3769-11-27. Scratch time**

"Scratch time" is the hour appointed by the presiding judge until which scratches may be made as provided in the rules of the Ohio state racing commission. *Effective: 1-1-85*

## **3769-11-28. When horse is starter**

A horse is a "starter" when the starting judge gives the word "go." *Effective: 1-1-85*

## **3769-11-29. Reference to hour of day**

As set out in the rules of the Ohio state racing commission, any reference to an hour of the day shall be considered to be local time at the track where the race is being contested. *Effective: 1-1-85*

## **3769-11-30. Possession/their possession**

"Possession" or "in their possession" shall mean: in, on or about the licensee's person, or any vehicle which they own, use, or have access to, as well as the entire area assigned and occupied or used by the responsible person which would include but is not limited to barns, stables, stalls, tack rooms, feed rooms. *Effective: 1-1-85*

## **3769-11-31. Added money race**

(A) An "added money race" is a race or series of races scheduled in which declaration fees received are added to the purse or purses. *Effective: 1-1-85; 2-2-08; 5-17-21*

## **3769-11-32. Classified race**

A "classified race" is a race, regardless of the eligibility of horses, with entries being selected on the basis of ability or performance. *Effective: 1-1-85*

## **3769-11-33. Conditioned race**

A "conditioned race" is an overnight event to which eligibility is determined according to specified qualifications. Such qualifications may be based upon among other things: (A) A horse's money winnings in a specified number of previous races during a specified previous time; (B) A horse's finishing position in a specified number of previous races or during a specified period of time; (C) Age; (D) Sex; (E) Number of starts during a specified period of time; (F) Special qualifications for foreign horses that do not have a representative number of starts in the United States or Canada; or (G) Any one or more combinations of the qualifications herein listed. (H) The use of time bars as a condition is prohibited. *Effective: 1-1-85; 2-2-08*

## **3769-11-34. Dash**

A "dash" is a race that is decided in a single trial. Dashes may be given in a series of two or three governed by one entry fee for the series, in which event a horse must start in all dashes. Positions may be drawn for each dash. The number of premiums awarded shall not exceed the number of starters in the dash. *Effective: 1-1-85*

## **3769-11-35. Declaration**

A "declaration" is the naming of a particular horse to a particular race as a starter. *Effective: 1-1-85*

## **3769-11-36. Disqualifications**

A "disqualification" shall be construed to mean that the person disqualified is barred from acting as an official or from starting or driving a horse in a race, or in the case of a disqualified horse, it shall not be allowed to start. *Effective: 1-1-85*

## **3769-11-37. Early closing race**

(A) An "early closing race" is a race for a definite amount to which entries close at least six weeks preceding the race. The entrance fee may be on the installment plan or otherwise, and all payments are forfeits.

(B) No deadline for the payment on a two-year old in early closing events is permissible prior to the fifteenth of February of

the year in which the horse is a two-year old. *Effective: 1-1-85; 2-2-08*

## **3769-11-38. Green horse**

Rescinded. *Effective: 1-1-85; 2-2-08*

## **3769-11-39. Guaranteed purse**

(A) A "guaranteed purse" is a purse that shall not be less than the amount advertised. *Effective: 1-1-85; 2-2-08*

## **3769-11-40. Handicap**

A "handicap" is a race in which performance, sex or distance allowance is made. Post positions for handicap may be assigned by the racing secretary. Post positions in a handicap claiming race shall be determined by claiming price, and in the event there are two tiers, the higher price horses will draw for the outside positions. *Effective: 1-1-85*

## **3769-11-41. Heat**

A "heat" is a single trial in a race, being conducted under the two-in-three or three-heat plan under the provisions of rule 3769-15-21 of the Administrative Code. *Effective: 1-1-85*

## **3769-11-42. Late closing race**

A "late closing race" is a race for a purse to which entries close less than six weeks and more than three days before the race is to be contested. *Effective: 1-1-85; 2-2-08*

## **3769-11-43. Length of race and number of heats**

Races or dashes shall be given at a stated distance in units not shorter than a sixteenth of a mile. The length of a race shall be stated in the conditions. If no distance is specified, a race shall be at one mile. *Effective: 1-1-85; 2-2-08*

## **3769-11-44. Stake race**

A "stakes race" is a race which will be contested in a year subsequent to its closing. The money offered by the sponsor conducting the race shall be added to the money contributed by the nominators, all of which, except deductions for the cost of promotion, breeders or nominators' awards, belongs to the winner or winners. *Effective: 1-1-85; 2-2-08*

## **3769-11-45. Two in three**

In a two-in-three race, a horse must win two heats to be entitled to first money. *Effective: 1-1-85*

## **3769-11-46. Two-year olds**

No two-year old shall be permitted to start in a race exceeding one mile in distance or in more than two heats in any single day. *Effective: 1-1-85; 2-2-08*

## **3769-11-47. Sulky defined**

For the purpose of the rules of the Ohio state racing commission a "sulky" shall be defined as a dual-shaft, dual-wheel racing vehicle with configurations complying with rule 3769-14-52 of the Administrative Code. *Effective: 1-1-85; 9-1-94*

## **3769-11-48. Authorized agent**

"Authorized agent" means a person authorized by a licensed owner or trainer to act in their behalf in all matters pertaining to the racing of his/her horses under the rules, regulations, and conditions of the Ohio state racing commission and the laws of the state of Ohio, subject to any stated limitations. *Effective: 1-1-85*

## **3769-11-49. Winner defined**

The "winner" is the horse or horses, in the case of a dead heat, whose nose reaches the finish line first unless the horse is disqualified by the judges. The finish position of all other horses shall be determined in the same manner. *Effective: 3-19-87; 2-2-08*

**3769-11-50. Simulcast defined.**

"Simulcast" shall mean the telecast, for wagering purposes, of audio and visual signals of live horse races conducted at facilities either inside or outside the state of Ohio.  
*Effective: 3-1-96*

**CHAPTER 3769-12.  
ADMINISTRATIVE RULES**

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**3769-12-01. The commission, right to search**

(A) Members of the commission and its representatives shall have the right of full and complete entry to any and all parts of the grounds and mutual plants of permit holders.

(B) The Ohio state racing commission and its representatives or the state judge investigating for violations of law or of the rules and regulations of the commission, shall have the authority to permit persons authorized by them to search certain persons and areas as follows:

(1) All persons licensed by the commission or persons engaged in activities that require a license by the commission when such persons are within the race track premises or those who have gained access by special permission;

(2) Vendors licensed by the commission when they are within the race track premises;

(3) Stables, rooms, vehicles and any other place within the race track premises used by those persons who may be searched pursuant to this rule;

(4) Stables, rooms and vehicles used or maintained by persons licensed by the commission and which are located in areas outside of the race track premises where horses eligible to race at the race meeting are stabled.

(C) If a person refuses to consent to such searches as described above, such person shall be automatically suspended by the judges and referred to the commission who may revoke said licensee's Ohio state racing commission license and rule said licensee off all Ohio tracks for the remainder of the calendar year and/or assess any other penalty provided for in rule 3769-12-99 of the Administrative Code. *Effective: 1-1-85*

**3769-12-02. May engage auditor**

The commission may engage auditors of its own choosing to examine the books and records of any permit holder. The cost of such audit, when ordered by the commission, shall be borne by the commission. *Effective: 1-1-85*

**3769-12-03. Procedure for adoption of rules**

(A) A majority of the members of the Ohio State Racing Commission shall concur to adopt, amend, or rescind a rule. Any member of the Ohio State Racing Commission may record his opposition to a proposed rule or amendment in the resolution adopting such rule, rescission, or amendment.

(B) A copy of each proposed rule, amendment, or rescission shall be filed with the Secretary of State, the director of the Legislative Service Commission, the Joint Committee on Agency Rule Review, and the Office of Small Business as provided by Section 119.03 of the Ohio Revised Code, at least thirty days prior to any public hearing on the proposed rule, rescission, or amendment.

(C) Prior to the proposed adoption, amendment or rescission of any rule by the Ohio State Racing Commission, public notice thereof shall be given at least thirty days prior to the date set for the public hearing thereon, by advertising in the Register of Ohio in accordance with applicable state law.

(D) The Commission shall furnish the public notice required under Section 119.03 of the Ohio Revised Code and as detailed by paragraph (A) of this rule to any person who requests notice in writing and who supplies an addressed, stamped envelope. *Effective: 1-1-85; 1-1-03; 2-2-08*

**3769-12-04. Public notice of commission meetings**

(A) The time and place of all regularly scheduled meetings or special meetings of the Ohio State Racing Commission may be obtained by:

- (1) Written request sent to the Commission office; or
- (2) Telephoning the Commission office; or
- (3) Checking the Commission's public website.

(B) Any representative of the news media may obtain notice of all special meetings by requesting in writing that notice be provided and supplying a regular mail or electronic mail address. In the event of a special meeting not of an emergency nature, the commission shall notify all media representatives who have requested notice of the meeting by doing at least one of the following:

(1) Sending written notice, by regular mail or electronic mail no later than twenty-four hours prior to the special meeting;

(2) Notifying media representatives by telephone no later than twenty-four prior to the special meeting. Telephone notice shall be complete if a message has been

left for the media representative, or if, after reasonable effort, the Commission has been unable to provide telephone notice;

(3) Informing the media representative personally no later than twenty-four hours to the special meeting.

(C) In the event of a special meeting of an emergency nature requiring immediate official action, the Commission shall notify all media representatives who have requested notice of such meeting of the time, place and purpose of the meeting by providing notice as described in paragraphs (B)(1), (2) and (3) of this rule or by notifying the clerk of the state house press room. In such an event, the notice need not be given twenty-four hours prior to the meeting, but shall be given immediately upon completion of the meeting agenda.

(D) All persons who have requested, in writing, advance notification of all meetings of the Commission at which specific public matters designated by those persons are scheduled to be discussed shall be placed on the Commission's agenda mailing list. The Commission shall, within a reasonable time prior to each meeting, post on the Commission's public website, or send by electronic mail, or by fax, or send by regular mail to those who have requested in writing an agenda of the meeting. *Effective: 2-2-08*

### **3769-12-05. Jurisdiction**

All harness racing in Ohio over which the commission has jurisdiction and supervision shall be conducted under the rules and regulations which the commission has set forth for such racing. If any case occurs which is not provided for in the rules of the Ohio state racing commission, the matter shall be determined by the judges or by the commission as the case may be. *Effective: 1-1-85*

### **3769-12-06. Commission rules supersede**

Except for Ohio sires stakes conditions approved by the commission, these rules and regulations or any other rule adopted by the commission supersedes the conditions of a race or the regulations of a permit holder when they conflict. *Effective: 1-1-85; 4-1-88; 2-2-08*

### **3769-12-07. Gifts forbidden**

No permit holder or any member, officer, director or employee thereof shall give or offer to any member, employee or representative of the commission or to any member of the family of any such member, employee or representative, any gift, money, property, entertainment or any other thing of value with intent to influence, or which may appear to be intended to influence the member, employee or representative of the commission in the performance of their official duties and responsibilities. *Effective: 1-1-85*

### **3769-12-08. Applicants for permit to conduct a horse race meeting**

(A) Any person, group of persons, association, corporation or trust desiring to hold or conduct a horse racing meeting, wherein the parimutuel system of wagering is permitted, shall make application to the commission for a permit in the manner provided by section 3769.04 of the Revised Code.

(B) In addition to the requirements of that section, the application shall state, or there shall be attached thereto, the following information:

(1) The full names and addresses of the person, persons, association, corporation or trust making application;

(2) If the applicant is an association, the names and home addresses of all members of the association;

(3) If the applicant is a corporation, the name of the state where it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;

(4) If the applicant is a trust, the location of its principal place of business, and the names and addresses of its trustees and beneficiaries;

(5) If the applicant is a partnership, the names and home addresses of each partner;

(6) If the applicant is a limited partnership, the name, home addresses, and percentage of ownership of each limited or general partner;

(7) The dates and exact location where the applicant will conduct race meetings and the proposed hours of each racing day;

(8) The proposed hours of operation on each racing day;

(9) A statement whether or not the racing plant is owned or leased, and if leased, the name and residence of the owner, or the names and home addresses of the directors if the lessee is a corporation; and

(10) Any other information as the commission may require. *Effective: 1-1-85; 2-2-08*

### **3769-12-09. Application for racing dates**

(A) Applications for permits for each succeeding year shall be made in writing to the secretary of the commission not later than August fifteenth. The commission shall meet as soon as practicable for the purpose of acting on said applications. Permits issued shall cover only such dates as the commission shall grant. The applicant, however, may file with its application a brief, setting forth reasons for desiring the dates sought.

(B) Applications for commercial permits shall be accompanied by a permit fee of ten dollars and a registration charge of one thousand dollars. In the case of a county agriculture society or independent agriculture society fair permit, a registration charge of one hundred dollars must accompany each application. In addition, the applications shall be accompanied by cash, bond, bank draft, or certified check payable to the order of "Ohio State Racing Commission" in an amount equal to one hundred dollars for each day petitioned for in the application. Such deposit shall be held by the commission for purpose provided for in section 3769.05 of the Revised Code.

(C) Each applicant for a commercial permit shall, prior to the opening of its racing season, request an inspection of the race track and receive a certificate from the state fire marshal indicating the premises of the applicant are in compliance with all of the safety requirements of the Ohio state racing commission. *Effective: 1-1-85; 8-1-91; 2-2-08*

### **3769-12-10. File list of officials**

(A) Each applicant for a commercial permit shall, at the time of making application or not less than thirty days prior to the first day of the racing meeting for which a permit is granted, filed with the commission a list of the names of the associate judges, identifier, starters, racing secretary, assistant racing secretary, handicapper, clerk of course, paddock judge, patrol judge, track veterinarian, track physician, mutuel manager, simulcast coordinator, outrider and director of security it proposes to engage or employ

during the racing meeting. In addition, the general manager of each commercial track shall submit certification that each racing official listed is competent to hold that position. No permit shall be issued unless this list of officials is approved by the commission. Any changes in officials during the racing meeting shall be reported promptly to the commission for approval.

(B) Before an individual is approved by the commission to serve as a judge, he or she must demonstrate possession of the mental and physical qualifications to perform the duties required. In addition, the applicant shall have completed the appropriate training. The commission may also consider a person's character, reputation, and temperament prior to approval. *Effective: 1-1-85; 2-2-08*

### **3769-12-11. Permit to race**

(A) No permit shall be issued under the provisions of the Ohio Revised Code to any person, association, firm or corporation engaged in the conducting of horse racing on a commercial basis solely with a view to profit unless and until such person, association, firm or corporation shall have filed with the commission:

(1) A current accurate financial statement, prepared and certified by an independent certified public accountant stating that all financial statements were made in accordance with generally accepted auditing standards and, accordingly, included tests of the accounting records and other auditing procedures as considered necessary. A statement shall show the net worth of the applicant for such permit and indicate the applicant can reasonably be expected to meet all financial obligations incurred in conducting the racing meeting.

(2) A statement as to when salaries, wages and purses that are or may be owed by the applicant shall become due and payable.

(B) If, upon examination of a financial statement, the commission should entertain reasonable doubt as to the financial ability of the applicant to meet and discharge all financial obligations, the commission may require the filing of a surety bond with the commission as hereinafter provided. In no event shall a person, association, firm or corporation having a net worth of less than five hundred thousand dollars be issued a permit under the Ohio Revised Code unless the applicant has filed a surety bond with the commission as hereinafter provided.

(C) In the event that the commission shall determine that a surety bond as herein provided shall be filed with the commission, such bond shall be in favor of the Ohio state racing commission as obligee, for the use and benefit of all aggrieved parties, as hereinafter defined, shall have sureties to the satisfaction of the commission, in an amount not to exceed one million dollars, and shall be conditioned upon payment by the permit holder of all financial obligations (provided, however, that no bond shall be required under the provisions of this rule in the case of an applicant who has filed a bond with a nationally recognized association of horsemen for substantially equivalent coverage to that herein provided, said bond being in favor of the association as obligee for the use and benefit of substantially the same categories of persons as are defined herein as "aggrieved parties").

The term "aggrieved parties" is hereby defined as:

(1) Agents and employees of the permit holder holding licenses issued to them by the commission pursuant to the provisions of rules 3769-12-24 and 3769-12-25 of the Administrative Code (excluding corporate officers in their capacity as such), with reference to amounts of salaries and wages owed to them which, if promptly requested when due

and payable, are not paid by the permit holder forthwith, together with such amounts of any and all salaries and wages owed to them as may not be due and payable at the time of such failure to pay.

(2) Owners of horses and their agents holding licenses issued to them by the commission pursuant to the provisions of rules 3769-12-24 and 3769-12-25 of the Administrative Code with reference to:

(a) Amounts of purses owed to them which, if promptly requested when due and payable, are not paid by the permit holder forthwith, together with the amounts of any and all purses owed to them as may not be due and payable at the time of such failure to pay; (b) Entry fees, nominating fees, eligibility fees and sustaining fees, paid for races not run; and

(c) Money owed to owners by the horsemen's bookkeeper for horses claimed.

(3) The state of Ohio and any of its departments or agencies for parimutuel taxes or any other obligations owed to the state of Ohio.

(4) The holders of all winning uncashed parimutuel tickets.

(5) A testing laboratory which has outstanding fees owed to them.

(D) All horsemen's bookkeeper funds shall be held as a separate interest trust fund and there shall be no commingling of these funds with any other funds and the money in such fund and all interest accrued therein shall be held for benefit of the horsemen. This language shall not be construed to prohibit the use of said trust funds to purchase certificates of deposit or United States treasury notes.

(E) Ohio sires stakes monies shall be kept in a separate fund which shall be used exclusively for payment of purse money to parties entitled thereto in Ohio sires stake fund races. *Effective: 1-1-85; 6-6-98; 2-2-08*

### **3769-12-11.1. Claims upon a surety bond**

(A) The racing commission shall be the sole decision maker in determining if funds are due an aggrieved party as defined in Ohio Administrative Code 3769-12-11. The racing commission may give the executive secretary authority to make this decision pending ratification at the next regularly scheduled or special meeting.

(B) The racing commission shall gather any information it believes is necessary to determine

(1) who an aggrieved party is;

(2) how much money is owed the aggrieved party; and

(3) why the money is owed to the aggrieved party.

(C) Once the racing commission determines how much money, if any, an aggrieved party is due, the racing commission may contact the permit holder in writing concerning the aggrieved party. The permit holder may be given ten business days to make the aggrieved party whole. Continuances may be granted at the discretion of the racing commission.

(D) If the permit holder fails to make the aggrieved party whole in the time frame prescribed by the racing commission, the racing commission may submit a claim on the bond.

(E) The racing commission shall not submit a claim on a bond that expired more than twelve months earlier. *Effective: 7-2-09*

### **3769-12-11.2. Financial ability of permit holder**

(A) If, at any time regardless of the filing of a bankruptcy petition, a permit holder finds themselves in a

situation where they are unable to make any payments or fulfill any financial obligations that are required under the permit, including but not limited to payments due to an aggrieved party as defined under rule 3769-12-11(C), the permit holder shall immediately notify the racing commission in writing of its situation.

(B) If, in the racing commission's discretion the permit holder lacks the financial ability to continue its day to day operations; threatens the integrity of pari-mutuel wagering; threatens the health, safety or welfare of the public, horse racing participants or other participants; and/or puts the wagering public at risk, the racing commission shall:

(1) Immediately suspend the permit holder's permit until such time that the racing commission determines that the permit holder has the financial ability to continue its day to day operations; or

(2) Require the permit holder to:

(a) Have a person approved in advance by the racing commission sign a guarantee of performance; or

(b) Set up a trust account, under terms and conditions as approved by the racing commission, for the benefit of the Ohio state racing commission for the benefit of aggrieved parties as defined by rule 3769-12-11(C). The amount in such account shall be determined by the racing commission; or

(c) Obtain a bond in an amount prescribed by the racing commission, in favor of the Ohio state racing commission as obligee, for the use and benefit of all aggrieved parties as defined by rule 3769-12-11(C). This bond may be in addition to any bond provided in accordance with rule 3769-12-11(B).

(C) The filing of a bankruptcy petition by a permit holder does not relieve the permit holder of any of the minimum requirements necessary to be issued and hold a permit to conduct pari-mutuel horse racing if, in the racing commission's discretion, it threatens the integrity of pari-mutuel wagering; threatens the health, safety, or welfare of the public, horse racing participants or other participants; and/or puts the wagering public at risk.

(D) For purposes of determining the amount payable on any bond, should the racing commission believe it may make a claim upon a bond, the racing commission shall notify the permit holder that it shall immediately but no more than ten (10) days from the date of the notice provide the racing commission with the following information in writing:

(1) The amount of any unpaid salaries or wages earned or due to the permit holder's employees that are licensed by the commission. The permit holder must provide a schedule detailing all unpaid wages and salaries by employee, by time period.

(2) The amount of any purse money that is unpaid or owed to any licensed owners by the permit holder. The permit holder must provide a schedule detailing such unpaid amounts by owner, by race, and by date.

(3) The amount of any entry fees, nominating fees, eligibility fees, or sustaining fees paid by licensed owners that the permit holder has or should have in its possession. The permit holder must provide a schedule detailing such amounts by owner.

(4) The amounts owed by the permit holder to licensed owners by the horsemen's bookkeeper for horses claimed. The permit holder must provide a schedule detailing such amounts by owner.

(5) The amount the permit holder owes to the holders of winning uncashed pari-mutuel tickets. The permit holder must provide a schedule detailing these unpaid amounts, listed by date and race.

(6) All horsemen's bookkeeper funds, including purse money, should be held as separate interest bearing trust funds. The permit holder must verify that this has been done, that the amounts have not been commingled with other funds, and that the accounts holding such funds will not be subjected to the permit holder's claim of creditors. The permit holder must attach a detailed schedule of all such funds held, and the amounts, by the permit holder on the date prior to the date of filing of the bankruptcy petition, as well as any other amounts that were deposited into those funds after such date.

(7) All Ohio sires stakes monies shall be kept in a separate fund which shall be used exclusively for payment of purse money to parties entitled thereto in Ohio sires stake fund races. The permit holder must verify that this has been done, that the amounts have not been commingled with other funds, and that the accounts holding such funds will not be subjected to the permit holder's claim of creditors. The permit holder must attach a detailed schedule of all such funds held, and the amounts by the permit holder on the date prior to the date of bankruptcy, as well as any other amounts that were deposited into those funds after such date.

(8) The amounts of the Combined Simulcast Horse Racing Purse Fund due under Ohio Revised Code Section 3769.089 and payments due to the collection and settlement agent under Ohio Revised Code Section 3769.0810. The permit holder must provide a detailed schedule.

(9) The amounts due and unpaid to any government authority in Ohio, including, but not limited to, state and local income taxes; commercial activity taxes; sales taxes; use taxes; excise taxes; horse racing taxes; employee withholding for federal, state, and local taxes; net profits taxes; school district income taxes; property taxes; workers' compensations premiums; unemployment compensations; etc. The permit holder must attach a schedule detailing such liabilities by jurisdiction and time period.

(10) A detailed list of any other amounts that are due or owed by the permit holder to any other aggrieved party as defined by Ohio Administrative Code Section 3769-12-11.

(11) A schedule detailing each bank account held in the name of or on behalf of the permit holder. This shall include the name of the bank, the account number, the balance in the account as of the day of filing of the bankruptcy petition, and a detailed description of what the account is used for.

(12) Any other information the racing commission believes is necessary.

(E) The failure of the permit holder to provide the information listed in Section (D) of this rule in the prescribed time may result in an immediate suspension of the permit holder's permits. The permit shall remain suspended until the permit holder has satisfied the racing commission that it should re-open and continue to operate and that the health, safety, or welfare of the public, horse racing participants or other participants will be protected; and/or integrity of pari-mutuel wagering and the wagering public will be protected.

(F) Upon receipt of the information requested in Section (D) of this rule, the permit holder and any necessary representatives shall appear before the racing commission no later than the racing commission's next regularly scheduled monthly meeting. The racing commission may set a special meeting for the permit holder and its representatives to appear at.

(G) If the racing commission is concerned that the financial condition of the permit holder threatens the integrity of pari-mutuel wagering; threatens the health, safety, or welfare of the public, horse racing participants or other participants; and/or puts the wagering public at risk,

then the failure of the permit holder to appear before the racing commission as directed in Section (F) of this rule may result in an immediate suspension of the permit holder's permit. The permit shall remain suspended until the permit holder has satisfied the racing commission that it should reopen and continue to operate.

(H) All of the above mentioned immediate suspensions may occur without a hearing.

(1) The racing commission shall issue a written order of suspension by certified mail or in person in accordance with Section 119.07 of the Ohio revised code. If the permit holder subject to the immediate suspension requests an adjudicatory hearing by the racing commission, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the permit holder requests the hearing, unless otherwise agreed to by both the racing commission and the permit holder.

(2) Any immediate suspension imposed under the division shall remain in effect unless reversed on appeal, until a final adjudicative order issued by the racing commission becomes effective. The racing commission shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order. *Effective: 7-2-09*

### **3769-12-12. Permits, agriculture societies, totalizator licenses**

(A) The commission may grant a permit to county or independent agricultural society, as defined by law, to conduct a parimutuel horse racing meeting during its annual fair, provided the dates of the fair have been approved by the Ohio director of agriculture.

(B) An application for a permit must be made by each agricultural society on a form the commission shall prescribe. The agricultural society shall be charged with the same duties and responsibilities as are commercial permit holders with respect to observance and enforcement of the Horse Racing Act, Revised Code, the rules of racing, and any orders issued by the commission, under penalties provided for in rule 3769-12-99 of the Administrative Code.

(C) No totalizator company may conduct parimutuel wagering during a fair until it has been licensed by the commission. Applications for licenses shall be made on a form prepared by the commission and shall be accompanied by the required fee contained in rule 3769-12-24 of the Administrative Code. Said application shall include, but shall not be limited to, the following:

(1) A copy of the contract between each county or independent agricultural society and the totalizator company that will conduct parimutuel wagering during the fair.

(2) A balance sheet setting forth the applicant's current net worth verified in writing under oath by the chief operating officer of the applicant.

(3) The wagering formats available for each race.

(4) A statement describing in detail the type of totalizator equipment to be used in conducting parimutuel wagering at the fair. This statement must include a description of the program capabilities of the equipment and its ability to generate any necessary calculations as required by Chapter 3769-13 of the Administrative Code.

(5) Any such other information as the commission may require. *Effective: 1-1-85; 6-6-88; 2-2-08*

### **3769-12-13. Place, time and number of races**

The permit shall set forth the name of the permit holder, the place where the races or race meetings are to be held, the days and time during which racing may be conducted by said permit holder, and the number of races to be held daily, not to exceed eleven. Any such permit issued shall not be transferable or assignable. Upon application the commission may grant special permission for parimutuel wagering races in excess of eleven per day, and may grant special permission for race cards lost because of inclement weather or other emergencies to be made up on subsequent dates at the rate of one race per date or any additional dates within the limitations of section 3769.07 of the Revised Code. The permit holder must immediately notify the commission of cancellations of race cards or races for any reason. This rule applies to commercial tracks and not to county or independent fairs. *Effective: 1-1-85; 8-1-91; 10-5-98*

### **3769-12-14. Permit holders enforcement obligations**

It shall be the duty of each and every permit holder and the officers, officials and employees of said permit holder to observe and enforce the provisions of the Horse Racing Act, the rules of racing and such orders as may, from time to time, be issued by the commission. Every permit to hold a race meeting is granted upon the condition that the permit holder therein named accepts and agrees to observe and enforce the provisions of the Horse Racing Act, the rules of racing and such orders as may from time to time be issued by the commission. *Effective: 1-1-85*

### **3769-12-15. Post permit**

Every permit holder shall post in a prominent place, in the principal office at the race track during the horse racing meeting, the permit granted by the commission. Such permit shall be available to be observed at all reasonable times to any authorized person requesting to see it. *Effective: 1-1-85*

### **3769-12-16. Security**

(A) A permit holder shall ensure that the public areas of the permit grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.

(B) A permit holder conducting a race meeting shall maintain security controls over its premises. Security controls are subject to the approval of the commission.

(C) On request by the commission, a permit holder shall provide a list of the security personnel, including the name, qualifications, training, duties, duty station and area supervised by each such person. *Effective: 1-1-85; 8-1-91; 10-5-98; 1-1-04*

### **3769-12-17. Must furnish records**

(A) Every permit holder shall upon demand in writing by the commission, furnish the commission a full and complete statement of receipts, expenditures, attendance and such other information as the commission shall require, with respect to any meeting, or with respect to any accounting period specified by the commission.

(B) Every commercial permit holder which does not own the real property at the place where a race meeting is to be conducted, at the time the application is filed for a permit, shall file a copy of the current lease with the commission unless there is one on file with the commission.

(C) The owner of the real estate shall, at the time the application for a racing permit is filed by its lessee, provide the following to the commission:

(1) A current financial statement showing assets and liabilities;

(2) Its latest operating statement showing its income and expenses relating to the real estate;

(3) A list containing the names and addresses, and occupations of all officers, directors, owners, shareholders, or partners. In case of a corporation whose stock is publicly traded, this information need only be supplied as to all officers and directors, and those stockholders owning or controlling ten per cent or more of the stock of the corporation;

(4) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the stock of the corporate owner of the real estate, such corporation or partnership shall be required to file the same information. *Effective: 1-1-85*

**3769-12-18. Applications for licenses**

(A) Applications for licenses or reciprocal validations shall be made on a form prepared by the commission. The form shall be available on request and when submitted, fully completed, shall be accompanied by the required fee as stipulated in rule 3769-2-24 of the Administrative Code. No one shall be employed in any capacity unless they have been licensed. Each such license, unless revoked or suspended for cause, shall be for the period of one year from January first of the year in which the same shall be issued; except that, the commission may, through the presiding judge, cause a temporary license to be issued which will be valid for entering and racing pending administrative processing and final action by the commission on such license application. In no event shall such temporary license be considered valid later than thirty days after its issuance.

During the racing season, all applications shall be submitted to the judge for approval, except that all employees of the permit holder and concessions must have their applications approved by their department head prior to submittal to the judge. When approved by the judges and signed by at least one of them, the application shall be forwarded to the commission representative for licensing. If the judges reject or table any applications, they shall report such actions to the commission.

(1) All applications for licenses shall carry the full name and permanent address of the applicant with street or rural route number and zip code. No temporary address of any kind will be acceptable, unless the applicant shall affirm that they have no permanent address.

(2) If a licensee changes his/her address or telephone number at any time during the licensing year, it shall be the licensee's responsibility to notify the Ohio state racing commission of said change within fifteen days of the change.

(3) Any person who violates paragraph (A)(1) of this rule shall be subject to the penalties as provided in rule 3769-2-99 of the Administrative Code.

(B) A corporation, association, partnership or a trust when it files an application for a license shall also provide the following:

(1) A list of all officers, directors and stockholders or partners (both general and limited) with their names, addresses and occupations. If the stock is publicly traded, then only the names, addresses and occupations of the officers, directors and owners of ten per cent or more of the stock need be given;

(2) Any other pertinent information requested by the commission. If any other corporation or partnership owns

ten per cent or more of the licensee, it shall file the same information. If the licensee is a concessionaire of the permit holder, it shall file a copy of its current lease or concession agreement. *Effective: 1-1-85; 9-5-86; 3-19-87; 10-4-92; 1-1-99*

**3769-12-19. Fingerprinting**

(A) Applicants for licenses issued by the commission shall submit their fingerprints to the commission once every five years. It shall be the responsibility of commercial permit holders to have fingerprints taken of all such persons for submission to the commission prior to such persons being approved for admission to the racing premises. Persons not appearing at racing premises shall submit their fingerprints in such manner as the commission shall prescribe. Said fingerprints shall be taken by competent and qualified personnel approved by the commission, and submitted on forms prescribed by the commission.

(B) The commission may forward to the federal bureau of investigation or any other agency for processing all fingerprints submitted by license applicants in compliance with section 3769.03 of the Revised Code. The commission shall maintain a file of such fingerprints.

(C) This rule shall not apply to harness horse owners who are currently and properly licensed as a harness horse owner in any other state or racing jurisdiction which has reciprocity with the Ohio state racing commission, provided said other state or racing jurisdiction requires the fingerprinting of owners for the purpose of a criminal record check at least once every three years. *Effective: 1-1-85; 10-4-92*

**3769-12-20. Written testimony**

The commission may require any person making application for the first time to secure written testimony from two reputable persons that they are personally known to them, are of good reputation and are familiar with the duties of the position they seek. *Effective: 1-1-85*

**3769-12-21. License restrictions, limitations and conditions**

(A) An applicant for a license must be sixteen years of age or older, however, the commission may grant a license to a person younger than sixteen years of age who is working on a permit holder's premises for his or her parents, or legal guardian, only. Any such license application for a person under the age of sixteen must be signed by his or her parent or legal guardian in the presence of one or more track judges.

(B) The application for an owner's license by a person under the age of eighteen must be accompanied by a notarized statement from their parent or guardian indicating said parent or guardian assumes responsibility for meeting all financial, contractual or other obligations relating to all racing activities of said applicant.

(C) The commission or its designee, for cause, may restrict, limit, or place conditions on any license, including probationary status. *Effective: 10-5-98*

**3769-12-22. Full name, permanent address**

Repealed. *Effective: 1-1-85; 10-5-98*

**3769-12-23. License qualifications for driver, trainer, second trainer and horseshoer**

(A) Each driver-trainer, trainer without driving rights or horseshoer desiring a license shall make application for same in writing on a form provided by the commission. All applicants shall state their full name and address, age, and whether or not they, at time of application are under suspension, revoked, ruled off or otherwise debarred from training or driving in any jurisdiction. They shall also set forth in said application such other information or data concerning their past record, their experience and qualifications, as may be required by the commission. All applicants shall sign the application and may be required to affirm the truth of all statements therein before a notary public.

(B) No trainer or assistant trainer license will be issued to an applicant until said applicant is designated by the owner or trainer as the trainer of a horse eligible and entered to race in a parimutuel race in Ohio.

(C) A licensed second trainer shall assume the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer shall be jointly responsible with his or her assistants for all acts and omissions of such assistant and involving a racing matter.

(D) Any person who trains horses solely owned by himself and/or wife who engages catch drivers to drive said horses may make application for license as a trainer without driving rights. After passing any test the presiding judge may require, such applicant may perform all duties of a licensed driver-trainer except drive in races and will be the absolute insurer of and responsible for the condition of the horses entered in a race as outlined in rule 3769-18-02 of the Administrative Code.

(E) An applicant for a horseshoer's license who has not been previously licensed in this state must have a written statement of two reputable persons to the effect that the applicant is personally known to them; that he or she is a person of good reputation and capable of performance of the vocation he or she seeks to follow. Said applicant shall be tested by a board consisting of a veterinarian, trainer and a licensed horseshoer or other qualified person appointed by the board of judges.

(F) An applicant for a horseshoer license may be issued an Ohio license without being tested in the manner provided in paragraph (E) of this rule, providing he/she has a current valid horseshoer license from another state or racing jurisdiction, which requires competency testing or similar qualification for horseshoer applicants in that state, or from which racing jurisdiction the applicant obtains a written statement of his/her competence from a presiding judge in said state or jurisdiction.

(G) Each trainer, assistant trainer, or horseshoer must provide workers' compensation coverage in accordance with Ohio law for all of his or her employees who are connected with racing and upon request of the commission the applicant for such licenses must provide satisfactory proof of such coverage. *Effective: 1-1-85; 1-1-87; 12-5-94; 10-5-98*

### 3769-12-24. License fees

(A) All persons in the list below shall procure an annual license from the commission, and the fees shall be as follows:

Admission employee	\$ 15.00
Announcer (race or track)	50.00
Assistant trainer	50.00
Authorized agent	50.00
Assistant racing secretary	50.00
Assistant starter	50.00
Chief of security	50.00

Clerical	15.00
Clerk of course	50.00
Concession employee	15.00
Concession manager	50.00
Doctor	50.00
Driver-trainer	50.00
Duplicate	15.00
Eligibility to claim	25.00
General manager (other management)	100.00
Groom	10.00
Horsemen's bookkeeper	50.00
Horseshoer	50.00
Identifier	50.00
Maintenance	15.00
Medical and first aid	15.00
Mutuel employee	15.00
Mutuel manager	50.00
Outrider	15.00
Owner	50.00
Owner's reciprocal validation	50.00
Paddock judge	50.00
Parking lot employee	15.00
Partnership	25.00
Patrol judge	50.00
Photographer	50.00
Placing judge	50.00
Presiding judge	100.00
Racing secretary	100.00
Security	15.00
Stable name (primary)	50.00
Stable name (secondary)	25.00
Starter	50.00
Judge	50.00
Supply sales (owner)	100.00
Supply sales	15.00
Telephone operator	15.00
Timer	15.00
Trainer only	50.00
Veterinarian	100.00
Veterinarian's assistant	15.00
Special A (professional)	100.00
Special B (technical)	50.00
Special C (clerical/miscellaneous)	15.00

### (B) Totalizator companies

(1) No corporation, partnership, association, trust, sole proprietorship, or any other entity that is responsible for the equipment and software used in connection with the conducting and/or servicing of pari-mutuel wagering at a race-track or other authorized pari-mutuel wagering facility may conduct said pari-mutuel wagering until it has been licensed by the commission. Applications for annual licenses shall be made on a form prepared by the commission, which shall be available upon request, and when submitted, fully completed, shall be accompanied by the required fee of \$1,000.00 Said application shall include, but shall not be limited to, the following:

(a) A copy of the contract (excluding information relative to proprietary trade secret information) between each racetrack or other authorized pari-mutuel wagering facility and the corporation, partnership, association, trust,

sole proprietorship, or any other entity that is responsible for the conducting of an/or servicing of pari-mutuel wagering during the racing meeting or at the authorizing pari-mutuel wagering facility;

(b) Certified financial statement setting forth the applicant's current net worth, verified in writing under oath by the chief operating officer of the applicant;

(c) A detailed statement of the wagering formats available for each race.

(d) A statement describing in detail the type of totalizator equipment to be used in the conducting of pari-mutuel wagering at the racetrack or at the authorized pari-mutuel wagering facility. This statement must include, but is not limited to, a description of the program capabilities of the equipment and its ability to generate any necessary calculations, its ability to interface where applicable, as well as a procedures manual which specifically identifies a reasonable audit procedure;

(e) Any such other information as the commission may require.

(2) Any totalizator company which is involved in the computerized calculation of mutuel payoffs and/or mutuel totals for any Ohio permit holder must have the computer equipment performing such work physically located within the state of Ohio except as provided in paragraph (5) of this rule. Such computer equipment may be located at a race track in Ohio, at a computer hub or a regional computer center or any other facility located in the state of Ohio and approved by the Ohio state racing commission. This portion of this rule does not necessarily apply when a permit holder in Ohio is receiving a simulcast from a race track located outside the state of Ohio.

(3) All persons employed in or by any totalizator company or facility, as described in paragraph (B)(2) of this rule, must be individually licensed by the Ohio state racing commission. The license fee for any totalizator management supervisory employee shall be \$100.00 and the license fee for all other employees shall be \$50.00.

(4) This rule shall not apply to restricted totalizator companies which work only county and/or independent fairs.

(5) A totalizator company which is involved in the computerized calculation of mutuel payoffs and/or mutuel totals for any Ohio permit holder may have the computer equipment performing such work physically located outside the state of Ohio only for an Ohio permit holder whose ownership has racing facilities outside of the state of Ohio and who utilize the same totalizator company. A totalizator company who maintains their computer equipment outside of the state of Ohio shall timely provide the Ohio state racing commission with all data that is required to be reported by a totalizator company who maintains their computer equipment in the state of Ohio. All persons employed by any out-of-state totalizator company or facility doing work for an Ohio permit holder must be individually licensed by the Ohio State Racing Commission. The license fee for any totalizator management supervisory employee shall be one hundred dollars and the license fee for all other employees shall be fifty dollars.

(C) Restricted license, county fairs:

Totalizator	\$100.00
All quarter horse participants	10.00
Driver-trainer	10.00
Groom	5.00
Mutuel employee	10.00
Owner	10.00
Racing official	10.00
Special D (miscellaneous )	10.00

(D) As part of the licensing fee, and in addition to those amounts listed in paragraphs (A) and (B) of this rule, all applicants shall be charged the necessary fees, to cover all fingerprinting costs once every five years.

(E) Any person who has lost their license shall be required to acquire a duplicate license from the commission for a fee of fifteen dollars. Should the original license be found, the licensee shall return the duplicate license to the judges or to the commission. *Effective: 1-1-85; 10-15-86; 6-6-88; 10-14-88; 3-16-90; 10-4-92; 1-1-93; 12-5-94; 5-18-95; 6-1-95; 10-1-06*

**3769-12-25. One license requirement**

Except for owners, trainers or other classifications where the breed of horse could have a direct bearing on a person's qualifications for a license, only one license is required of licensees who are performing the same function at thoroughbred, harness or quarter horse meetings. *Effective: 1-1-85; 9-5-86*

**3769-12-26. License refused, revoked, suspended**

(A) The commission may refuse to grant, may revoke or may suspend any license, or may otherwise penalize, under the provisions of rule 3769-12-99 of the Administrative Code, a person to whom any of the following apply:

(1) The applicant or licensee has been convicted of a felony within the preceding ten years;

(2) The applicant or licensee has had a license of the legally constituted racing authority of any state, province or nation, denied, suspended or revoked for cause within the preceding five years;

(3) The applicant or licensee is presently under suspension for cause of any license by the legally constituted racing authority of any state, province or nation;

(4) The applicant or licensee has violated or attempted to violate any provision of Chapter 3769. of the Revised Code or the Ohio rules of racing;

(5) The applicant or licensee has perpetrated or attempted to perpetrate any fraud or misrepresentation in connection with the racing or breeding of horses;

(6) The applicant or licensee has demonstrated financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

(7) The applicant or licensee has made any material misrepresentation in his or her application for license;

(8) The applicant or licensee has engaged in bookmaking, touting, or similar pursuits or has consorted with persons engaged in such activities;

(9) The applicant or licensee has abandoned, mistreated, abused, neglected or engaged in an act of cruelty to a horse;

(10) The applicant or licensee has engaged in conduct which is against the best interest of horse racing;

(11) The applicant or licensee has failed to comply with a written order or ruling of the commission or judges, pertaining to a racing matter;

(12) The applicant or licensee has failed to answer correctly under oath to the best of his/her knowledge all questions asked by the commission, or its representatives, pertaining to a racing matter;

(13) The applicant or licensee fails to return to the permit holder any purse monies, trophies and/or awards paid in error and/or ordered redistributed by the commission;

(14) The applicant or licensee shall not have in his/her possession on a permit premises any alcoholic beverage other than a beverage legally sold to them through the permit holder's concession operation;

(15) The applicant or licensee in any way interferes with or obstructs any member of the Ohio state racing commission, any commission employee or any racing official while said commissioner, commission employee or racing official is performing his/her duties.

(B) In any proceeding on the question of whether a licensee should be penalized under the provisions of this rule, the commission may consider its own prior formal actions as to the applicant or licensee as indicated by its own records. In cases where the same applicant or licensee has previously had a hearing conducted at his/her request in accordance with Chapter 119. of the Revised Code at which such applicant was present either in person or by counsel, the commission may consider all or any part of the evidence presented at such previous hearing. Where the subsequent proceeding is also a public hearing in accordance with Chapter 119. of the Revised Code, all or any part of the transcript of such previous hearing and all or any part of any relevant evidence received therein may be received in evidence upon submission by either party and considered by the commission as may be appropriate in the determination of the question before it in such subsequent hearing.

*Effective: 1-1-85; 9-5-86*

#### **3769-12-27. License required**

(A) Persons participating or attempting to participate in racing, or any other person employed or working in any other capacity on the race track premises, without first applying for a license, shall be denied admission to the premises, and their failure to apply shall be considered grounds for denial of such license if subsequently applied for.

(B) Any licensee who employs any unlicensed person in any capacity may be suspended by the judges and may be fined not more than one thousand dollars.

(C) The commission may fine any permit holder which employs any unlicensed person in any capacity an amount not in excess of the maximum permitted by law.

(D) Persons participating or attempting to participate in racing after having been denied a license to participate may be ruled off by the commission.

(E) Paragraph (A) of this rule shall not apply to sworn law enforcement officers with arrest powers or members of the working press or media assigned to cover events at the race track.

(F) Any licensee who signs in a guest or "special permission" person who is not licensed will be held accountable for their guests actions. *Effective: 1-1-85; 10-15-85; 9-5-86; 10-5-98*

#### **3769-12-28. Conduct by licensee**

All persons licensed pursuant to the provisions of rules 3769-12-24 and 3769-12-25 of the Administrative Code shall, while in attendance at racing meetings, conduct themselves in a respectful and temperate manner. With the exception of officers and employees of permit holders whose duties include the entertainment of patrons, and then only to the extent of drinking at public bars with patrons so entertained, no officers or employees of any permit holder shall consume any alcoholic beverages while in attendance during racing hours at racing meetings conducted by such permit holder. Reasonable care shall be exercised by officers of permit holders to assure that these provisions are not violated. *Effective: 1-1-85*

#### **3769-12-29. Fraudulent or improper practice**

(A) Any license issued by the commission may, after a proceeding before the commission and in compliance with Chapter 119. of the Revised Code, be revoked for corrupt, fraudulent or improper practice on the part of the holder, or for conduct detrimental to the best interest of racing.

(B) Any licensee who by any act intentionally attempts to or actually corruptly affects the outcome of a horse race shall be fined one thousand dollars and suspended for one year by the judges, and be referred to the commission for any additional penalty. Upon finding a licensee has committed such an act, the commission may revoke any Ohio state racing commission license(s) held by the licensee for life and/or rule off such licensee from all Ohio race tracks for life.

(C) Any licensee who, even though not directly involved in the act, has knowledge of any act which corruptly affects or attempts to corruptly affect the outcome of a horse race and fails to report said knowledge to the judges shall be fined one thousand dollars and suspended for one year by the judges and be referred to the commission for any additional penalty. Upon finding a licensee has failed to properly report knowledge of such an act, the commission may revoke any Ohio state racing commission license(s) held by the licensee for life and/or rule off such licensee from all Ohio race tracks. *Effective: 1-1-85; 9-16-88; 10-5-98*

#### **3769-12-30. Conduct, partnership, corporate**

(A) In addition to the causes for any penalty to be assessed against a permit holder or licensee elsewhere set out in the rules of the Ohio state racing commission, any permit holder or licensee employed in any capacity at a permit holder's track, may be penalized under the provisions provided for in rule 3769-12-99 of the Administrative Code for any of the following reasons:

(1) The intentional making of any materially false statement in connection with an application for a permit or license;

(2) Conduct by an applicant, licensee, or permit holder in violation of section 2915.06 of the Revised Code.

(B) If a license issued to any member of a partnership should be revoked by the commission pursuant to the foregoing provisions of this rule, any permit thereafter applied for by such partnership may be denied. If such partnership be a permit holder and the remaining members of such partnership shall fail to arrange, upon gaining knowledge of such revocation, that such member thereof whose license has been revoked shall thereafter be denied access to the grounds of such permit holder and be prevented from participating thereafter in the conducting of such partnership of the racing meeting for which such permit is issued, the permit issued to such partnership may be penalized under the provisions of rule 3769-12-99 of the Administrative Code.

(C) If a license issued to the holder of ten per cent of the voting shares of capital stock of a corporate permit holder should be revoked by the commission, such revocation shall constitute grounds for any penalty provided for in rule 3769-12-99 of the Administrative Code to be levied against such corporation during such period as the person whose license shall have been revoked continues to be the holder of ten per cent of the voting shares of capital stock of such corporate permit holder.

(D) If a license issued to a person who is an officer, or director of a corporate permit holder should be revoked, and such permit holder should fail with reasonable promptness to take the corporate action required to remove such person

as an officer or director, such revocation shall constitute grounds for any penalty provided for in rule 3769-12-99 of the Administrative Code to be levied against the permit holder so long as the person whose license shall have been revoked continues to be an officer or director of such corporation.

(E) The provisions of the three preceding paragraphs of this rule concerning corporate permit holders and permit holders which are partnerships, shall cease to be applicable in every case at such time as the commission may thereafter issue a license to the member of such partnership whose license shall have been revoked, or may thereafter issue a license to the officer, director, or holder of the aforementioned proportion of the voting shares of capital stock of such corporate permit holder whose license shall have been revoked. *Effective: 1-1-85*

### **3769-12-31. Proved unconstitutional**

Should any rule or any part of any rule of the Ohio state racing commission be found to be unconstitutional, the remaining part of the rule and/or the remaining rules will not be invalidated. *Effective: 1-1-85*

### **3769-12-32. Financial responsibility action fee**

Any individual, company or other entity who requests the commission to take action against a licensee under the financial responsibility rule shall submit the request in writing indicating the debt owed was horse race related. The request must be accompanied by a certified copy of the court judgment against the licensee and a non-returnable fee of one hundred dollars by certified check or money order made payable to the "Ohio State Racing Commission." *Effective: 1-1-85*

### **3769-12-33. Unrestricted competitive bidding procedure**

(A) For purposes of section 3769.20 and division (G) of section 3769.08 of the Revised Code, unrestricted competitive bidding procedures, shall include the following:

(1) Notice shall be given to the public that bids are being accepted on the project.

Notice shall be given in at least two daily newspapers of general circulation for a minimum period of seven days, and generally describe the type of work to be performed. Proof of publication shall be provided to the commission with the application for tax abatement.

(2) Identical definite specifications and plans describing the work to be done shall be presented to all interested bidders. The notice shall give the location and person from whom the specifications can be obtained.

(3) The notice and specifications shall set a deadline before which bids shall be submitted and the date as to when the bids will be opened. The bids shall be submitted sealed and not opened until after the deadline.

(4) No contract shall be awarded a bidder unless a minimum of three bids have been received before the deadline. If three bids have not been received, notice shall again be given in accordance with paragraph (A) of this rule, the deadline shall be extended, and the bids that have been submitted shall remain sealed until the new deadline has passed and a total of at least three bids have been submitted.

(5) The bids shall be submitted on such forms as the commission shall prescribe.

(6) The commission may approve the application and find that the contract was let under unrestricted competitive bidding even though the contract was not granted to the

lowest responsive and responsible bidder, if the applicant presents sufficient reasons to the commission which justify their choice. Such reasons may include but are not limited to the reputation and reliability of the bidder, the bidder's experience in the type of work involved, and the comparative quality of the different materials offered for the cost, as well as their adaptability. *Effective: 9-5-86; 8-1-91*

### **3769-12-34. License qualifications for horseshoer**

Repealed. *Effective: 1-1-85; 10-8-98*

### **3769-12-35. Simulcasting of races**

All simulcast races on which pari-mutuel wagering is conducted by a permit holder shall be in accordance with the following conditions and/or restrictions:

(A) All simulcast races must be conducted in full compliance with section 3769.089 of the Revised Code.

(B) Except by special permission of the commission no permit holder may simulcast more than two races per race day.

(C) A copy of the simulcast contract, between a permit holder and the originating track, must be in the commission office prior to the simulcasting of a race by a permit holder, unless otherwise waived by the commission.

(D) When simulcasting any race, other than those races on which there is a common pari-mutuel wagering pool that is processed and priced by other than the permit holder's totalizator system, the permit holder must prominently display the amounts wagered, as well as the wagering odds at the permit holder's track, on each horse participating in the simulcast race(s). After the race has been made official, this display device will also show the payoffs of all wagers accepted on the race. In all races in which there is a common pari-mutuel pool, the permit holder must prominently display the total amount wagered in the common pool at all tracks.

(E) When simulcasting a race the permit holder must provide telephone communications between the stewards' stand, tote room or other approved location at the originating track and the stewards' stand, tote room or other approved location at the permit holders track. The telephone equipment shall be used for a reasonable time, prior to the scheduled post time, of the race to be simulcasted and until the results of the simulcast race are declared official by the stewards at the originating track.

(F) Wagering on a simulcast race, other than those races on which there is a common pari-mutuel pool that is processed and priced by other than the permit holder's totalizator system, will close and the pari mutuel machines of the permit holder will be locked by the mutuel manager or designee at the permit holder's track at the time the stewards at the originating track indicate the race has started or at the time the mutuel manager or designee at the permit holder's track see the start of the race on television. On those races on which there is a common pari-mutuel pool that is processed and priced by other than the permit holder's totalizator system, the permit holder's mutuel manager or his designated representative shall be responsible for closing wagering if the host track fails to close wagering at the permit holder's facility.

(G) If technical problems cause a loss of either/or the audio or visual signal of a simulcast race, wagering can continue as long as the officials have communication with the host track and wagering is stopped at the proper time when the simulcast race begins.

(H) The violation of any part of this rule shall subject the person and/or permit holder, in violation of the rule, to

the penalties provided in rule 3769-2-99 of the Administrative Code. *Effective: 8-1-91; 3-1-96*

### 3769-12-36. Satellite facilities

(A) Unless a rule is specifically exempt from enforcement on the premises of a satellite facility, all applicable Ohio State Racing Commission rules shall apply to any satellite facility in the same manner such rules apply to a commercial permit holder.

(B) As used in this rule, "Applicable Ohio State Racing Commission rules" shall mean all rules which pertain in any way to a commercial permit holder.

(C) Once a permit holder has filed an application for a license to operate a satellite wagering facility, the commission shall conduct a background investigation of the owners or stockholders of land, space or premises used for the proposed construction or operation of the satellite wagering facility. The commission shall require a complete disclosure of all owners or stockholders of the land, space or premises in question in an application submitted to the commission within thirty days of receipt of permit holder's satellite wagering facility application.

The potential lessor shall state in the application whether he has ever been convicted of a felony or pled guilty to a felony charge and provide any applicable exhibits. The applicant shall submit a set of fingerprints taken at a law enforcement agency and provide complete authorization to release any criminal records to the commission.

Such application will be unnecessary if the permit holder proposing to operate the satellite wagering facility provides documentation of complete ownership of the land and premises within thirty days of receipt of permit holder's satellite wagering facility application.

(1) The commission shall collect from permit holders any and all costs for materials, personnel and the conduct of a hearing as the result of any submission by a potential lessor containing any falsification of information contained in any application or exhibit. *Effective: 9-1-95; 1-1-99*

### 3769-12-37. Definitions

As used in Rules 3769-2-37 to 3769-2-41, unless the context requires otherwise:

(A) "Access" as a noun means an instance of copying, viewing, or otherwise perceiving whereas "access" as a verb means to copy, view, or otherwise perceive.

(B) "Acquisition of a new computer system" means the purchase of a "computer system," as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the commission rule addressing requirements in section 1347.15 of the Revised Code.

(C) "Computer system" means a "system," as defined by section 1347.01 of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.

(D) "Confidential personal information" (CPI) has the meaning as defined by division (A)(1) of section 1347.15 of the Revised Code and identified by rules promulgated by the commission in accordance with division (B)(3) of section 1347.15 of the Revised Code that reference the federal or state statutes or administrative rules that make personal information maintained by the commission confidential.

(E) "Employee of the commission" means each employee of a commission regardless of whether he/she holds an elected or appointed office or position within the

commission. "Employee of the commission" is limited to the specific employing commission.

(F) "Incidental contact" means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.

(G) "Individual" means a natural person or the natural person's authorized representative, legal counsel, legal custodian, or legal guardian.

(H) "Information owner" means the individual appointed in accordance with division (A) of section 1347.05 of the Revised Code to be directly responsible for a system.

(I) "Person" means a natural person.

(J) "Personal information" has the same meaning as defined in division (E) of section 1347.01 of the Revised Code.

(K) "Personal information system" means a "system" that "maintains" "personal information" as those terms are defined in section 1347.01 of the Revised Code. "System" includes manual and computer systems.

(L) "Research" means a methodical investigation into a subject.

(M) "Routine" means commonplace, regular, habitual, or ordinary.

(N) "Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person" as that phrase is used in division (F) of section 1347.01 of the Revised Code means personal information relating to employees and maintained by the commission for internal administrative and human resource purposes.

(O) "System" has the same meaning as defined by division (F) of section 1347.01 of the Revised Code.

(P) "Upgrade" means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements. *Effective: 2-1-11*

### 3769-12-38. Procedures for accessing confidential person information

For personal information systems, whether manual or computer systems, that contain confidential personal information, the commission shall do the following:

(A) Criteria for accessing confidential personal information. Personal information systems of the commission are managed on a "need-to-know" basis whereby the information owner determines the level of access required for an employee of the commission to fulfill his/her job duties. The determination of access to confidential personal information shall be approved by the employee's supervisor and the information owner prior to providing the employee with access to confidential personal information within a personal information system. The commission shall establish procedures for determining a revision to an employee's access to confidential personal information upon a change to that employee's job duties including, but not limited to, transfer or termination. Whenever an employee's job duties no longer require access to confidential personal information in a personal information system, the employee's access to confidential personal information shall be removed.

(B) Individual's request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information

about the individual maintained by the commission, the commission shall do all of the following:

(1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;

(2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and

(3) If all information relates to an investigation about that individual, inform the individual that the commission has no confidential personal information about the individual that is responsive to the individual's request.

(C) Notice of invalid access.

(1) Upon discovery or notification that confidential personal information of a person has been accessed by an employee for an invalid reason, the commission shall notify the person whose information was invalidly accessed as soon as practical and to the extent known at the time. However, the commission shall delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation or jeopardize homeland or national security. Additionally, the commission may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals' confidential personal information invalidly was accessed, and to restore the reasonable integrity of the system.

"Investigation" as used in this paragraph means the investigation of the circumstances and involvement of an employee surrounding the invalid access of the confidential personal information. Once the commission determines that notification would not delay or impede an investigation, the commission shall disclose the access to confidential personal information made for an invalid reason to the person.

(2) Notification provided by the commission shall inform the person of the type of confidential personal information accessed and the date(s) of the invalid access.

(3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.

(D) Appointment of a data privacy point of contact. The Executive Director shall designate an employee of the commission to serve as the data privacy point of contact. The data privacy point of contact shall work with the chief privacy officer within the office of information technology to assist the commission with both the implementation of privacy protections for the confidential personal information that the commission maintains and compliance with section 1347.15 of the Revised Code and the rules adopted pursuant to the authority provided by that chapter

(E) Completion of a privacy impact assessment. The Executive Director shall designate an employee of the commission to serve as the data privacy point of contact who shall timely complete the privacy impact assessment form developed by the office of information technology.  
*Effective: 2-1-11*

### **3769-12-39. Valid reasons for accessing confidential person information**

(A) Performing the following functions constitute valid reasons for authorized employees of the commission to access confidential personal information:

(1) Responding to a public records request;

(2) Responding to a request from an individual for the list of CPI the commission maintains on that individual;

(3) Administering a constitutional provision or duty;

(4) Administering a statutory provision or duty;

(5) Administering an administrative rule provision or duty;

(6) Complying with any state or federal program requirements;

(7) Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;

(8) Auditing purposes;

(9) Licensure [or permit, eligibility, filing, etc.] processes;

(10) Investigation or law enforcement purposes;

(11) Administrative hearings;

(12) Litigation, complying with an order of the court, or subpoena;

(13) Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approvals/issues);

(14) Complying with an executive order or policy;

(15) Complying with a commission policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar commission; or

(16) Complying with a collective bargaining agreement provision.

(17) Any other reason the Executive Director documents is necessary for the commission to carry out its duties to regulate the horse racing industry. *Effective: 2-1-11*

### **3769-12-40. Confidentiality statutes**

The following federal statutes or regulations or state statutes and administrative rules make personal information maintained by the commission confidential and identify the confidential personal information within the scope of rules promulgated by this commission in accordance with section 1347.15 of the Revised Code:

(A) Social security numbers: 5 U.S.C. 552a., unless the individual was told that the number would be disclosed.

(B) "Bureau of Criminal Investigation and Information" criminal records check results: section 4776.04 of the Revised Code. *Effective: 2-1-11*

### **3769-12-41. Restricting and logging access to confidential personal information in computerized personal information systems**

For personal information systems that are computer systems and contain confidential personal information, the commission shall do the following:

(A) Access restrictions. Access to confidential personal information that is kept electronically shall require a password or other authentication measure.

(B) Acquisition of a new computer system. When the commission acquires a new computer system that stores, manages or contains confidential personal information, the commission shall include a mechanism for recording specific access by employees of the commission to confidential personal information in the system.

(C) Upgrading existing computer systems. When the commission modifies an existing computer system that stores, manages or contains confidential personal information, the commission shall make a determination whether the modification constitutes an upgrade. Any upgrades to a computer system shall include a mechanism for recording specific access by employees of the commission to confidential personal information in the system.

(D) Logging requirements regarding confidential personal information in existing computer systems.

(1) The commission shall require employees of the commission who access confidential personal information within computer systems to maintain a log that records that access.

(2) Access to confidential information is not required to be entered into the log under the following circumstances:

(a) The employee of the commission is accessing confidential personal information for official commission purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(b) The employee of the commission is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(c) The employee of the commission comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(d) The employee of the commission accesses confidential personal information about an individual based upon a request made under either of the following circumstances:

(i) The individual requests confidential personal information about himself/herself.

(ii) The individual makes a request that the commission takes some action on that individual's behalf and accessing the confidential personal information is required in order to consider or process that request.

(3) For purposes of this paragraph, the commission may choose the form or forms of logging, whether in electronic or paper formats.

(E) Log management. The commission shall issue a policy that specifies the following:

(1) Who shall maintain the log;

(2) What information shall be captured in the log;

(3) How the log is to be stored; and

(4) How long information kept in the log is to be retained.

Nothing in this rule limits the commission from requiring logging in any circumstance that it deems necessary. *Effective: 2-1-11*

### **3769-12-42 Video Lottery Sales Agent Employee License; Application on Reciprocal Validation**

(A) No one shall be employed in any capacity unless they have been licensed. Applicants for video lottery sales agent employee licenses on reciprocal validation shall apply in a manner determined by the commission. Each such license, unless revoked or suspended for cause, shall automatically renew each January first in which the applicant is licensed by the lottery commission.

(1) All applications for licenses shall carry the full name and permanent address of the applicant with street or rural route number and zip code. No temporary address of any kind will be acceptable, unless the applicant shall affirm that they have no permanent address.

(2) If a licensee or applicant changes his or her address or telephone number at any time during the licensing year, it shall be the licensee's responsibility to notify the commission of the change within fifteen days.

(B) A corporation, association, partnership, limited liability company, or trust, when it files an application for a

license on reciprocal validation shall also provide the following:

(1) A list of all officers, directors and stockholders or partners (both general and limited) with their names, addresses and occupations. If the stock is publicly traded, then only the names, addresses and occupations of the officers, directors and owners of ten per cent or more of the stock need be given; and

(2) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the applicant, it shall file the same information as required in paragraph (B)(1) of this rule.

(C) Each application submitted under this rule shall be exempt from the licensing fees assessed pursuant to rule 3769-12-24 of the Administrative Code, except as otherwise agreed to by the commission and the lottery commission through a license fee sharing agreement.

(D) For purposes of this rule, an applicant who has submitted fingerprints to the lottery commission for a video lottery sales agent employee license pursuant to chapter 3770:2-4 of the Administrative Code shall be deemed to have complied with the requirements of rule 3769-12-19 of the Administrative Code. *Effective: 05-23-15*

### **3769-12-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 1-1-85*

**CHAPTER 3769-13.  
WAGERING REQUIREMENTS**

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**3769-13-01. Win, place, show wagering and entries**

(A) The horse racing act legalizes and permits the parimutuel form of wagering in Ohio but only on the premises of permit holders. Wagering may be in several distinct pools; namely, on horses to finish first, which is designated the "win" pool; on horses to finish first or second, which is designated the "place" pool; and on horses to finish first, second, or third which is designated the

"show" pool. Any other type of pool is called an "exotic pool."

(B) From each win, place, and show pool at any race track conducting parimutuel wagering, there shall be deducted eighteen per cent. The remainder, less breakage, shall be the net pool for distribution.

(C) All horses from the same stable or of the same ownership engaged in the same race must race as an entry and a single wagering interest unless otherwise permitted by the commission. However, when a trainer enters more than one horse of different ownership in any type race the horses may be uncoupled as an entry and considered to be separate betting interests. No trainer may have more than two betting interests in any one race other than a stakes race. In all win, place, and show pools, if two or more horses in a race are coupled as an entry or field in one betting interest, there shall be no refunds, unless all of the horses so coupled are excused before off time.

(D) All pools shall be calculated in accordance with the accepted practice in the calculation of mutuel pools as herein provided. *Effective: 1-1-85; 4-3-86; 5-21-90; 9-5-94; 9-1-08*

**3769-13-02. Exotic wagering and entries**

(A) "Exotic wagering" is defined as any betting or wagering that is separate and distinct from the win, place and show pools. Types of exotic wagering include but are not limited to daily double, quinella, perfecta, and trifecta pools. Types of exotic wagering not covered by these rules may be instituted by the permit holder for a trial period of six months or longer from the initial wagering day of the experimental exotic pool, only after the submission of written rules to the commission, accompanied by a full explanation, and only after the commission's interim approval thereof. Upon final approval by the racing commission and incorporation into these official rules, any permit holder may use such exotic wagering without further permission. Permit holders may not vary from the final approved rule without express approval of the commission.

(B) From each exotic pool, there shall be deducted twenty-two and one half per cent; the remainder being the net pool for distribution, less breakage.

(C) Exotic wagering shall be conducted only by use of automatic mechanical, electric or electronic devices which print and issue tickets evidencing individual wagers and either locally print a permanent record of the tickets issued by each machine or transmit by automatic mechanical, electric, or electronic means the total number dollar value of such tickets for registry on a central aggregating device; and no such aggregating device shall be cleared of the figures so registered until the commission's representative then on duty shall have had a reasonable opportunity to record such figures.

(D) Unless prohibited by the racing commission for a specific type of exotic wagering, all entries as defined in paragraph (C) of rule 3769-11-25 of the Administrative Code and all field horses as defined in rule 3769-11-11 of the Administrative Code may race coupled as one wagering interest in any exotic pool, provided they are likewise classified for win, place and show wagering. Horses owned by different interests but trained by the same trainer may race uncoupled as separate wagering interests. No trainer may have more than [sic] two betting interests in any one race other than a stakes race.

(E) In all exotic pools, if two or more horses are coupled in an entry or field as one wagering interest, there shall be no refunds on such interest unless all of the horses so coupled are excused before off time. Contrary to win, place, show, and dead heat payoff calculations where two or

more parts of a field or entry may participate, all exotic pool calculations must use separate wagering interests in determining proper payoff combinations. If two or more field or entry horses finish in payoff positions, the highest placed position takes precedence.

(F) In any rule of Chapter 3769-13 of the Administrative Code where an example of exotic pool payout or priority of payout is given such as (1-2-3) or (1-2-3-all), the "1" is defined as the horse placed first, "2" the horse placed second, "3" the horse placed third, and "4" the horse placed fourth in the official order of finish regardless of initial post position, head number or saddle cloth. In any exotic pool where a payoff includes the "all" condition such as 1-2-3-all or 1-2-all, the word "all" is defined as all horses or entries, other than those already participating in the payoff, which started the subject race regardless of whether they failed to finish for any reason, were declared a non-starter for equipment failure or other reason or were disqualified or placed back for a rule violation.

(G) In any exotic form of wagering in which a carryover pool is generated, there must be a mandatory distribution of such carryover jackpot on the "final day of the meeting" as defined in paragraph (I) of this rule. In addition, the permit holder after written application to, and with the express approval of the racing commission, may schedule additional "mandatory payout" days. Such mandatory distribution days may be based on (a) a specified size of carryover jackpot; (b) a fixed number of days between mandatory payout; or (c) a fixed number of days between mandatory payout with a guaranteed minimum payout. A full explanation of the method used in determining and scheduling such additional mandatory payout days shall be well advertised and available to the public.

(H) If a carryover jackpot under paragraph (G) of this rule is won before a scheduled, advertised mandatory distribution, the permit holder will still proceed with a mandatory distribution on the scheduled date. The mandatory distribution will be guaranteed at no less than the advertised amount. If the mandatory distribution carryover pool is less than the advertised approved amount, permit holders will add whatever funds are necessary to guarantee that the winner will receive a total payoff of no less than the specified amount after commissions (multiple winners would share a payoff of no less than the approved amount after commissions).

(I) For all exotic carryover jackpots "final day of the meeting" shall mean:

(1) The last scheduled racing date under the permit holder's permit, unless another permit is scheduled to commence within twenty-one days at the same facility and the other permit holder has agreed to continue the carryover pool; or,

(2) The last scheduled racing date (under a permit holder's permit) before a scheduled hiatus of more than twenty-one days.

(J) If, on the final day of the meeting, a carryover pool cannot be distributed because of the specific rules for that particular exotic wager or race or program cancellation or any other reason approved by the judges, it shall be invested on the next business day in an account, bearing interest at no less than the average rate available locally. The accumulated carryover jackpot, plus such interest as has accrued, shall be carried over to the next subsequent racing date and thereon distributed in a mandatory payoff of the same type exotic wager. *Effective: 3-1-81; 3-2-82; 6-1-82; 9-1-82; 1-1-85; 4-3-86; 5-21-90; 1-1-04*

### 3769-13-03. Totalizator

No permit shall be issued to an applicant unless a totalizator system approved by the commission is installed for parimutuel wagering. Each permit holder shall provide and maintain in good working order a telephone system connecting the stewards' stand with the office of the parimutuel plant and any other stations which the commission and/or permit holder deem necessary. The permit holder shall also provide a telephone in the judges stand which permits the stewards to contact an off track location without going through a switchboard. Each permit holder shall provide and maintain in good working order a system of bells which shall be rung from the stewards' stand or tote room to signal the close of wagering. On all races other than those races on which there is a common parimutuel pool that is processed and priced by other than the permit holder's totalizator system. A button shall also be provided in the stewards' stand and or tote room which, when pressed, will lock ticket-issuing machines and close wagering, for each race other than those races on which there is a common pari-mutuel pool that is processed and priced by other than the permit holder's totalizator system. A steward and the totalizator operator shall be in verbal communication one minute prior to scheduled post time for each race other than those races on which there is a common pari-mutuel pool that is processed and priced by other than the permit holder's totalizator system. The race shall not start if there is no verbal communication between the judge and the totalizator operator. At tracks where the next previous year's daily average handle was two hundred fifty thousand or more, the term "totalizator of approved design" shall be one which displays to the public on a board or television screen, running totals of amounts wagered, in each of the win, place and show pools on each entry in each race. No totalizator may be deemed one of approved design unless it is capable of registering by automatic, mechanical, electric or electronic means on central aggregators all wagers made on each horse, entry, or the field, in each of the win, place and show pools, and displaying the totals so registered in such a way as to permit ready tabulation thereof by the commission's representative. The totals so registered on such aggregator shall not be cleared therefrom until such representative has had reasonable opportunity to record them. *Effective: 1-1-85; 5-21-90; 3-1-96; 1-1-09*

### 3769-13-04. Lock parimutuel machines

Except for advanced wagering on subsequent races, wagering will close and parimutuel machines will be locked by electrical control when the front of the vehicle to which the starting gate is attached reaches the starting line. *Effective: 3-1-81; 1-1-85; 9-5-86; 5-21-90; 9-5-94; 5-21-90*

### 3769-13-05. Provision to prohibit wagering

(A) If less than six separate entries start, permit holders may prohibit show wagering. In all races with less than five entries which start, they may prohibit both place and show wagering. If, after betting has opened, a late scratch reduces the number of betting interests to five or less, the show pool may be cancelled at the discretion of the permit holder and the gross show pool refunded. If late scratches reduce the betting interests to four or less, the place and show pools may be cancelled at the discretion of the permit holder and the gross place and show pools refunded.

(B) In the case of stakes with less than five entries which start, permit holders, may at their option provide that

there shall be no wagering; and in such cases an additional race with wagering may be added to the program. However, the judges in any race may waive the requirement that there must be a place or show pool.

(C) In races with six or less wagering interests that start, permit holders may prohibit exotic wagering that requires more than two horses in one race to calculate a payoff. In races with less than five entries that start, all exotic wagering may be prohibited.

(D) If a late scratch or scratches reduce the numbers of wagering interests to six or less, the exotic pools requiring more than two horses to complete a payoff may be cancelled at the discretion of the permit holder and the gross exotic pool refunded. If the number of wagering interests is reduced to five or less, the permit holder may cancel any exotic pool that requires more than one horse in one race to calculate a payoff and refund the gross exotic pool to holders of such tickets.

(E) A permit holder with the consent of the judges may bar wagering on any horse or entry in any race, heat or dash. In such event a public announcement shall be made prior to the acceptance of any wagers with respect to such race, heat or dash. Under such circumstances the horse or entry barred shall be considered for the purpose of such wagering not to have been a participant in such race. A horse or entry barred in one heat or dash of a race is not barred in subsequent heats or dashes of the same race unless the permit holder, with the consent of the judges, again determines to do so and suitable public announcement is made thereof. *Effective: 1-1-85; 5-21-90*

**3769-13-06. Approximate odds board**

(A) Each permit holder must display an approximate odds board or alternate display device and post thereon the opening line and not less than three additional complete quotations or lines of odds for the purpose of informing the public of the actual wagering on each horse as disclosed by an accurate take-off of the win pool at the time such odds are posted and also a final line after the close of wagering. No quotation or line shall exceed a total of one hundred ten plus the commission per cent for the win pool.

(B) A copy of the opening line and all additional lines of odds, as well as amounts of money wagered on each horse at the time each line of odds is posted, shall be furnished and delivered to a representative of the commission by the permit holder following each race. *Effective: 1-1-85; 5-21-90*

**3769-13-07. Numbering of mutuel windows & transactions**

(A) All sellers' and cashiers' windows in mutuel departments of permit holders shall be numbered and the number designating each window shall be displayed at such window in direct view of patrons. In addition, the mutuel clerk at each window shall wear a name tag which properly identifies himself/herself and which is readily readable by any person with normal eyesight.

(B) A single mutuel ticket, with a total purchase value of one hundred dollars or more to win on any individual horse, shall only be cancelled within six transactions from the time it was issued and only at the window at which it was sold. Such tickets beyond six transactions shall be referred to the mutuel manager or his/her designee. The mutuel manager or the designee shall provide the racing commission with a written explanation if the single mutuel ticket is cancelled. *Effective: 1-1-85; 5-26-85; 4-3-86; 5-21-90; 1-1-04; 2-2-08*

**3769-13-08. Records to be maintained**

The permit holder shall maintain complete records of all wagering so the commission may, upon review, ascertain for any race the opening line and subsequent odds fluctuations, the amount and at which windows wagers were placed on any betting interest, and such other information as the commission may from time to time require. A copy of such wagering records shall be retained by each permit holder and safeguarded for a period of not less than one year from the close of the meeting and may not be destroyed without permission of the commission. *Effective: 1-1-85; 5-21-90*

**3769-13-09. Minus pools**

(A) No winning wager in any pool shall be paid off at less than the amount of the wager plus ten per cent thereof, except that if a minus pool occurs in any type of wagering, a winning wager shall be paid off at not less than the amount of the wager plus five per cent.

(B) When a minus pool occurs, the permit holder is required to pay the amount of the minus pool from the commission he is permitted to retain, and the total gross breakage from all other pools shall be reduced by the amount of the minus pool. When a minus pool exists at the close of the racing day, the amount of that minus pool shall not be utilized to reduce net breakage from the next day's racing. *Effective: 1-1-85; 5-21-90*

**3769-13-10. Incorrect payments**

(A) If an error is made in calculating the price of a correct ticket combination or in calculating an incorrect ticket combination which results in an overpayment, any such overpayments made shall be deemed final and the recipients entitled to retain the overpayment. If the error is discovered before all such incorrect transactions are completed, the error may be corrected, accompanied by a public announcement, and only the correct tickets and/or prices paid thereafter.

(B) In the event of an error in calculations which results in an underpayment and payments have already been made, the amount of such underpayment shall be promptly ascertained and confirmed by a commission representative. Upon such confirmation, the underpayment shall be transferred to the next corresponding pool on the same day's racing program. In the event the amount of the underpayment cannot be ascertained and confirmed before the conclusion of the day's racing program, the underpayment shall be escrowed by the permit holder and distributed in the next corresponding pool on the daily program run next. Any and all underpayments shall be promptly and fully reported to the commission. Any underpayment not distributed or undistributable prior to the end of the meet shall be held in trust and transferred into the next corresponding pool of the next meeting of the permit holder in question. *Effective: 1-1-85; 5-21-90*

**3769-13-11. Emergency situations**

In the event any emergency situation arises in connection with the operation of the parimutuel department not provided for by these rules, the pari-mutuel manager shall make an immediate decision and inform the state judge and the commission representative of his action and render a full report to the commission the following day. Public announcement shall be made describing such

emergency situation and the decision made thereon.  
*Effective: 1-1-85; 5-21-90*

### **3769-13-12. Win, place, and show calculations**

(A) The parimutuel pools shall be calculated and distributed as follows. In any race, the win, place and show pools shall be treated separately and calculated independently of each other or any other pool.

(B) Win pool:

The net pool shall be divided by the amount wagered on the horse finishing first, to determine the payoff per dollar, including profit and wager.

(C) Place pool:

(1) The amounts wagered on horses finishing first and second shall be deducted from the net pool to determine the profit which shall be divided in half, and each half shall be divided by the amount wagered on one of the horses thus determining the profit per dollar, to which profit the wager shall be added in totaling the payoff.

(2) When two horses in the field or coupled as an entry run first and second, the place pool shall be distributed in the same manner as a win pool.

(3) When only one horse finishes, the place pool, if any, shall be distributed in the same manner as a win pool.

(D) Show pool:

(1) The amounts wagered on the horse finishing first, second, and third shall be deducted from the net pool to determine the profit, which shall be divided into three equal parts. Each part shall be divided by the amount wagered on one of the horses, thus determining the profit per dollar, to which profit the wager shall be added in totaling the payoff.

(2) When two horses in the mutuel field or coupled as an entry finish first and second, first and third, or second and third, two-thirds of the profit shall be allocated to the tickets representing wagers on the field or entry and the remaining one-third to the wagers on the other horse.

(3) When three horses in the mutuel field or coupled as an entry run first, second, and third, the place and show pools shall be distributed in the same manner as a win pool.

(4) When only two horses finish, the show pool, if any, shall be distributed in the same manner as a place pool.

(5) When only one horse finishes, the show pool, if any, shall be distributed in the same manner as a win pool.

(E) In any race in which no horse finishes, all money wagered on the race shall be refunded upon presentation and surrender of parimutuel tickets sold thereon.

(F) No disqualified horse shall be considered in any mutuel payoff except when an exotic pool has an "all" payoff as defined in paragraph (F) of rule 3769-13-02 of the Administrative Code. *Effective: 1-1-85; 5-21-90*

### **3769-13-13. No money wagered on win horse in pool**

If a horse should be adjudged to have finished first in a heat or race and no money has been wagered on the horse in the win pool, the net win pool shall be distributed to those who wagered in the win pool on the horse adjudged to have finished second, or to the classes of wagers who wagered on the horses adjudged to have finished in a dead heat for second position; and if no money has been wagered on such horse or horses, then to those who wagered in the win pool on the horse adjudged to have finished third, or to the classes of wagers who wagered on the horses adjudged to have finished in a dead heat for third position. If none of the above apply, then a complete refund of the gross win pool shall be made to those who purchased win tickets. *Effective: 1-1-85; 5-21-90*

### **3769-13-14. No money bet on 1st, 2nd horse in place pool**

If a horse should be adjudged to have finished first or second in a heat or race, or to be one of the two or more horses adjudged to have finished in a dead heat for first or second position and no money has been wagered on such horse in the place pool, the net place pool shall be distributed to the other class, or among the other classes of purchasers of place tickets entitled to participate in the distribution of the place pool; and, if no money has been wagered on the above classes, then to those who wagered in the place pool on the horse adjudged to have finished third, or to the classes of wagers who wagered on the horses adjudged to have finished in a dead heat for third position. If none of the above, a complete refund of the gross place pool will be made to those who purchased place tickets. *Effective: 1-1-85; 5-21-90*

### **3769-13-15. Nothing wagered to show on 1st/2nd/3rd horse**

If a horse should be adjudged to have finished first, second or third in a heat or race, or to be one of two or more horses adjudged to have finished in a dead heat for first position, second position, or third position, and no money has been wagered on such horse in the show pool, the net show pool shall be distributed among the other classes of purchasers of show tickets entitled to share in the distribution of the show pool using normal parimutuel practices as herein provided. If none of the above classes apply, a complete refund of the gross show pool shall be made to those who purchased show tickets. *Effective: 1-1-85; 5-21-90*

### **3769-13-16. Dead heats in the win pool**

(A) If two or more horses finish in a dead heat for first position, the amounts of money wagered on such horses in the win pool shall be deducted from the net win pool to determine the profit, which shall be divided into as many equal parts as there are horses in the dead heat. Each part shall be divided by the amount wagered on one of said horses to determine the profit per dollar, to which profit the wager shall be added in totaling the payoff. In the event that no money is wagered in the win pool on one of such horses, the remaining class or classes of such purchasers shall share in a similar distribution of the net win pool.

(B) If two parts of an entry or field finish in a dead heat for first position, the pool shall be calculated as a win pool. *Effective: 1-1-85; 5-21-90*

### **3769-13-17. Dead heats in the place pool**

(A) If two or more horses finish in a dead heat for first position, they alone share in the place pool. The amounts of money wagered on such horses in the place pool shall be deducted from the net place pool to determine the profit, which shall be divided into as many equal parts as there are horses in the dead heat. Each part shall be divided by the amount wagered on one of said horses to determine the profit per dollar, to which profit the wager shall be added in totaling the payoff.

(B) If two or more horses should be adjudged to have finished in a dead heat for second position, the winnings remaining (after deduction from the net place pool and allocation of the amounts of their wagers to those who wagered in the place pool on the horse adjudged to have finished first and to those who wagered on each of the two horses adjudged to have finished in a dead heat for second

position) shall be divided as followed: one-half of such winnings shall be allotted to those who wagered on the horse adjudged to have finished first, and the remaining one-half shall be divided into as many equal parts as there are horses adjudged to have finished in a dead heat for second position, and one of such equal parts shall be allotted to each of the class of purchasers of place tickets who wagered on one of such horses adjudged to have finished in such dead heat for second position.

(C) If one horse of an entry or field finishes first and another horse of the same entry or field finishes in a dead heat for second with a horse not in the entry or field, the winnings remaining (after deduction from the net place pool and allocation of the amount of their wagers to those who wagered in the place pool on the horse that finished first and to the horse that finished in a dead heat for second with the entry or field horse) shall be divided as follows: three-fourths of such winnings shall be allotted to those who wagered on the entry or field and the remaining one-fourth shall be allotted to those who wagered on the horse adjudged to have finished second in the dead heat with the entry or field horse. *Effective: 1-1-85; 5-21-90*

### **3769-13-18. Dead heats in the show pool**

(A) If two horses finish in a dead heat for first, two-thirds of the profit shall be allocated equally to the tickets representing wagers on the horses finishing in the dead heat for first and one-third to the wagers on the horse finishing third.

(B) If more than two horses finish in a dead heat for first, the profit shall be divided into as many equal parts as there are horses adjudged to have finished first and one such part shall be allocated to each class of purchasers of show tickets who wagered on one of the horses adjudged to have finished in such dead heat for win.

(C) If two or more horses should be adjudged to have finished in a dead heat for second position, the winnings remaining (after deduction from the net show pool and allocation of the amounts of their wagers to those who wagered in the show pool on the horse adjudged to have finished first and to those who wagered on each of the two or more horses adjudged to have finished in a dead heat for second position) shall be divided as follows: one-third of such winnings shall be allotted to those who wagered on the horse adjudged to have finished first, and the remaining two-thirds shall be divided into as many equal parts as there are horses adjudged to have finished in a dead heat for second position, and one of such equal parts shall be allotted to each of the class of purchasers of show tickets who wagered on one of such horses adjudged to have finished in such dead heat for second position.

(D) If two or more horses should be adjudged to have finished in a dead heat for third position, the winnings remaining (after deduction from the net show pool and allocation of the amount of their wagers to those who wagered in the show pool on the horse adjudged to have finished first, to those who wagered in said pool on the horse adjudged to have finished second and to those who wagered on each of the two or more horses adjudged to have finished in a dead heat for third position) shall be divided as follows:

One-third of such winnings shall be allotted to those who wagered on the horse adjudged to have finished first, one-third thereof shall be allotted to those who wagered on the horse adjudged to have finished second, and the remaining one-third shall be divided into as many equal parts as there are horses adjudged to have finished in a dead heat for third position. One of such equal parts shall be

allotted to each of the classes of purchasers of show tickets who wagered on one of such horses adjudged to have finished in such dead heat for show position.

(E) When one horse in the mutuel field or coupled as an entry finishes first or second, and another part of the entry or field finishes third in a dead heat with a horse not in the entry or field, one-half of the profit shall be allocated to the tickets representing wagers on the field or entry, one-third to the non-entry horse finishing first or second, and the remaining one-sixth to the wagers on the horse finishing third in the dead heat with the field or entry.

(F) If two horses of an entry or field finish first and second, and another horse of the same entry or field finishes in a dead heat for third with a horse not in the entry or field, five-sixths of the net profit shall be allocated to the tickets representing wagers on the entry or field and the remaining one-sixth shall be allocated to those wagers on the horse finishing in a dead heat for third.

(G) If horses which are part of an entry or field finish first and second, and a horse not coupled in the same entry or field finishes in a dead heat for either first or second, two-thirds of the net pool shall be allocated to the tickets representing wagers on the horses of the entry or field and one-third to the tickets representing wagers on the horse not coupled. *Effective: 1-1-85; 5-21-90*

### **3769-13-19. Daily double pool calculations**

(A) The object of the daily double is to select on one ticket, and in one combination, the winners of two consecutive races as officially posted. These races will be clearly designated on the program.

(B) The daily double is calculated as an entirely separate pool and, in general, is calculated as a win pool.

(C) If no ticket is sold combining the two winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the second race of the daily double in the same manner in which a place pool is calculated and distributed.

(D) If no ticket is sold on the winner of the first race of the daily double on any combination, the entire pool is apportioned to the holders of tickets on the winner of the second race of the daily double. Likewise, if no ticket is sold on the winner of the second race of the daily double or any combination, the entire pool is apportioned to the holders of tickets on the winner of the first race of the daily double. If there are none, the daily double shall be cancelled and the gross pool refunded to holders of daily double tickets.

(E) If a dead heat to win should result in either the first or second race of the daily double, the total pool is calculated as a place pool. In case of a dead heat for the winner of the first race of the daily double, the posting of payoff prices will be made after the winner of the second race of the daily double is official.

(F) In the event any horse or horses in the first half of the daily double should be excused by the judges after the horses have left the paddock for the post, or after the betting on the daily double has been closed, or should any horse or horses in the first half of the daily double be declared a non-starter for any reason by the judges, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the daily double pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(G) If a horse is scratched from the second half of the daily double before it becomes a starter in the second half,

but after the first half of the daily double has been run, all daily double tickets combining the scratched horse in the second race of the daily double with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second race of the daily double. The total payoff on all tickets combining the winner of the first race of the daily double with the scratched horse in the second race of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(H) The possible payoff prices shall be posted, displayed, or announced to the public before the start of the second race of a daily double, and as soon as possible after the horses in the race of the second half of a daily double have entered upon the track on the way to the post.

(I) If for any reason the second race of the daily double is cancelled or declared "no race" by the judges after the first daily double race is declared official, then the net daily double pool shall be distributed to the wagering combinations which include the horse or betting interest which finished first in the first daily double race. If none were sold, then the net pool will be distributed to those combinations which include the horse or wagering interest which finished second in the first race and; if none, then the daily double will be cancelled and the complete pool will be refunded to those holding daily double tickets.

(J) Daily double wagering will close at the start of the first race of the daily double and a complete report of the wagering will be provided to the representative of the racing commission prior to the second race of the double.

(K) At every location on the premises of each permit holder at which daily double tickets may be sold, a board or alternate display device shall be maintained within view of patrons who may purchase daily double tickets at such location, upon which, as a preliminary to the sale of daily double tickets, opening lines of approximate odds with respect to both of the two races of the daily double shall be posted, unless official programs carry such opening lines of approximate odds.

(L) Unless one or more horses shall be adjudged to have finished in a dead heat for first position in the first race of a daily double, or unless subsequent to the running of the first race of the daily double, the judges shall order a horse or horses withdrawn from the second race of the daily double, the payoff prices of the daily double tickets representing the horse adjudged to have finished first in the first race of the daily double and each of the horses which are expected to participate in the second race of the daily double shall be video displayed or posted at a location designated for such purpose; and, if such prices so posted shall not be legible from the grandstand, they shall be announced over a loud speaker system if such a system has been installed and is in working order.

(M) If one or more horses have been adjudged to have finished in a dead heat for first position in the first race of a daily double, or if, subsequent to the running of the first race of a daily double and prior to the displaying and announcing of payoff prices on the daily double, pursuant to paragraph (L) of this rule, the judges shall order a horse or horses withdrawn from the second race of the daily double, then because of the complicated calculations involved, the payoff prices of the daily double tickets need not be posted or announced as required in paragraph (L) of this rule. However, announcement of the fact that such prices will not be posted or displayed and the reason thereof will be made immediately after the first race. If any payoff prices on the daily double shall have been posted or announced prior to

the ordering by the judges of the withdrawal of a horse or horses, and if such posted prices become incorrect and should be erased, the reason for such erasure shall be displayed, and a statement that such prices will not be applicable shall be announced. *Effective: 1-1-85; 5-21-90*

### **3769-13-20. Quinella wagering**

(A) The object of the quinella is to select in one combination, on a single ticket, the first two horses or separate wagering interests (if there are entries or fields) to finish in a race as officially posted. The order in which the horses finish is immaterial.

(B) The quinella is calculated as an entirely separate pool and, except for the contingencies below, is calculated in the same general manner as a win pool.

(C) If a horse in a race on which there is quinella wagering is excused by the judges, all monies wagered on combinations which include this horse shall be deducted from the quinella pool and refunded to the purchaser of tickets on the horse unless such horse is part of a field or entry (see paragraph (E) of rule 3769-13-02 of the Administrative Code).

(D) If no ticket is sold combining the horses, or separate wagering interests, that finish first and second, then the net pool shall be calculated as a place pool between those having tickets including the horse (wagering interest) that finished first and those having tickets including the horse (wagering interest) that finished second. If no tickets are sold on one such combination, then the net pool will be distributed as a win pool to those holding tickets on the other combination.

(E) In the event that a race on which there is a quinella wagering should result in a dead heat for second place, the payoffs will be calculated in the same manner as a place pool. In such a race, if there is a dead heat in the win, the net quinella pool shall be calculated and distributed as a win pool to the holders of such tickets as selected both horses adjudged to have finished in said dead heat. If more than two horses are adjudged to have finished first in a dead heat for win, the amounts wagered on all combinations of any two of the horses adjudged to have finished in such dead heat shall be deducted from the net pool to determine the profit which shall be divided into as many equal parts as there are combinations of any two horses. Each part shall be divided by the amount wagered on one such combination to determine the profit per dollar, to which profit the wager shall be added in totaling the payoff.

(F) In a quinella pool, if two horses which are part of a field or entry finish in a dead heat for first then the quinella pool is calculated as a win pool for the holders of those tickets selecting the field or entry and the next separate betting interest as officially posted. If such field or entry horses finish in a dead heat for second, the quinella pool is calculated as a win pool for the holders of tickets who selected the non-field or entry winning horse and the field or entry.

(G) If no ticket was sold that would require distribution of a quinella pool to a winner or winners as defined above, the permit holder shall make a full refund of the quinella pool to those who purchased quinella tickets. *Effective: 1-1-85; 5-21-90*

### **3769-13-21. Perfecta or exacta wagering**

(A) The object of the perfecta, also known as an exacta, is to select on a single ticket and, in a single combination, the two horses or separate wagering interests (if there are fields or entries) that subsequently finish first

and second in a single race in the exact order of finish as officially posted.

(B) The perfecta is calculated as an entirely separate pool and, except for the contingencies below is calculated in the same general manner as a win pool.

(C) In the event no ticket is sold in the perfecta pool coupling the horses finishing first and second in the exact order of official result, the net pool shall be calculated as a win pool for those who select ticket combinations in the exact order of official result in the following order of priority:

(1) (1-all) if none, then (2) (All-2) if none, then (3) (All-all) (refund)

(D) In case of a dead heat between two separate wagering interests for first place, the net perfecta pool shall be distributed as a place pool to those holders of tickets containing both interests in either position. In case of a dead heat between two separate wagering interests for second place, the perfecta pool shall be calculated as a place pool, the holders of the tickets combining the winning horse and the two horses finishing second participating in the payoff.

(E) In the event of a dead heat for second place, if no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the perfecta pool shall be calculated and distributed as a place pool to holders of tickets selecting the winning horse to finish first and those selecting either of the place horses in the dead heat to finish second. If entry or field horses run first and second or in a dead heat for first, then the next separate wagering interest is considered as the other half of the winning perfecta combination(s).

(F) If a horse in a race on which there is perfecta wagering is excused by the judges, all monies wagered on combinations which include this horse shall be deducted from the perfecta pool and refunded to the purchaser of tickets on the horse, unless such horse is part of a field or entry (see paragraph (E) of rule 3769-13-02 of the Administrative Code).

(G) If no ticket is sold that would require distribution of a perfecta pool to a winner or winners as defined above, the permit holder shall make a full refund of the perfecta pool to those who purchased perfecta tickets. *Effective: 1-1-85; 5-21-90*

**3769-13-22. Trifecta wagering**

(A) The object of the trifecta is to select, in one combination and on one ticket, in exact order, the first, second and third place horses (or first, second and third separate wagering interests if entry or field horses are entered) as officially posted in the designated trifecta race.

(B) The trifecta is calculated as an entirely separate pool and, except for the contingencies below, is calculated in the same general manner as a win pool.

(C) If a horse is scratched or excused from racing, no further tickets shall be sold designating such horse and all tickets sold designating such horse and all tickets sold designating such horse shall be refunded immediately and the money deducted from the gross pool, except in the case of tickets with multiple bets, when the combinations containing the scratch horse shall be refunded after the race is official. The money thus refunded will be deducted from the gross pool.

(D) When there is no ticket sold in the trifecta pool coupling the horses finishing first, second and third, in the exact order of official result, the net pool shall be

apportioned equally to those who select correct ticket combinations in the following order of priority:

(1) (1-2-all) if none, then (2) (1-all-all) if none, then (3) (All-all-all) (refund)

Failure to select the first horse to win shall cause a full refund of the trifecta pool to those who purchased trifecta tickets.

(E) In the event of a dead heat for first place in a trifecta, the payoff price shall be calculated as in a place pool. The winning combinations shall include the first two horses finishing in either position and the horse finishing third.

(1) In the event of a dead heat for second position in a trifecta, the payoff prices will be calculated as in a place pool. The winning combinations shall include the horse finishing first, and the two horses finishing in a dead heat for second, as finishing in either position.

(2) In the case of a dead heat for third in a trifecta, the payoff prices will be calculated as in a place pool. The winning combinations shall include the horse finishing first, the horse finishing second, and either of the two horses finishing in a dead heat for third.

(3) In the case of a dead heat where there is no winning ticket on one dead heat combination, the entire net pool will go to the other winning combination(s).

(F) If entry or field horses are entered in a trifecta and finish in two or three of the first three positions or if such entry or field horses finish in a dead heat for the first, second or third position, then the next separate wagering interest or interests shall be selected so that the first three separate wagering interests are used in calculating the trifecta payoff for each eligible combination. *Effective: 1-1-85; 5-21-90*

**3769-13-23. Superfecta wagering**

(A) The object of the superfecta is to select in exact order, on one ticket and in one combination, the first, second, third, and fourth horses (or separate betting interest if field or entries are involved), as officially posted, of a single designated race. Permit holders may give different names to this type of wagering but must notify the commission of the names selected.

(B) The superfecta is calculated as an entirely separate pool and except for the contingencies below is generally calculated as a win pool.

(C) If a horse or horses are scratched or excused by the judges, all money wagered on combinations which include such horses will be deducted from the superfecta pool and returned to the purchasers of such tickets unless such horse or horses are part of a field or entry and other horses remain in the entry or field.

(D) If no ticket is sold combining the first four horses in exact order as officially posted, then payoffs shall be made to those who select correct ticket combinations in the following order of priority:

(1) (1-2-3-all) if none, then (2) (1-2-all-all) if none, then (3) (1-all-all-all) if none, then (4) (All-all-all-all) refund

Failure of anyone to select the first horse to win will result in a complete refund of the superfecta pool to all purchasers of superfecta tickets.

(E) If, for any reason, less than four horses finish, the pay-off shall be made to those holding tickets selecting the horse or horses that do finish in exact order and priority of paragraph (D) of this rule.

(F) In the event of a dead heat or dead heats, all superfecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in any position involved in the dead heat, shall be winning tickets, and

distribution shall be made as in a place pool. If fields or entries are involved in the dead heat, the first four separate wagering interests shall comprise the winning combination(s). *Effective: 1-1-85; 5-21-90*

### **3769-13-24. Twin trifecta wagering**

(A) The object of the twin trifecta is to select, in one combination on one ticket, the first three horses (or the first, second and third separate wagering interests if there are entry or field horses entered), in exact order as officially posted, in the first designated race. Then, after exchanging such winning tickets, to select three horses to finish in exact order as officially posted, in the second designated race. Permit holders may give different names to this wager, but should notify the commission of such choice of names. Not more than two races may elapse between the first and second races of this wager, and such races must be clearly designated in the program.

(B) The twin trifecta will be calculated as an entirely separate pool and will be calculated in the general manner of a win pool.

(C) After wagering closes for the first race of the designated two races of the twin trifecta, all applicable commissions will be deducted from the pool in accordance with the laws of the state of Ohio. The remaining net pool will then be divided into two separate pools of equal amounts.

(D) The money in the first part of the divided pool will be distributed to the holders of the twin trifecta tickets selecting the first three horses in exact order of finish, in the first designated twin trifecta race. The term "first part of divided pool" shall mean one half of the net distributable pool of the total money wagered in the twin trifecta on the current day's program only. Specifically excluded therefrom shall be any carryover of any twin trifecta pool from any previous day's program.

(E) The second half of the divided pool will be placed in a separate pool to be distributed to the holders of "second half" twin trifecta tickets selecting the first three horses, in exact order, on the second designated twin trifecta race.

(F) In the first race of the twin trifecta only, except on mandatory payout days, if there is a failure to select the first three horses, in exact order of finish, no exchange tickets will be issued and only monetary payoffs shall be made on twin trifecta tickets selecting horses in the following order of priority: (1) (1-2-all) if none, then (2) (1-all-all)

Failure of any ticket to select one of the above combinations will result in a complete refund of that day's twin trifecta pool to all persons holding current twin trifecta tickets (all-all-all). Any ticket within the applicable order of priority as aforesaid shall be deemed a winning ticket entitling the holder thereof to the applicable payoff from the first part of the divided pool. On mandatory payout days only, if no ticket selects the first three horses in exact order, the above order of priority will be used to issue an exchange ticket as well as pay the applicable share of the first part of the divided pool.

(G) After the official declaration of the first three horses to finish in the first race of the twin trifecta, each bettor holding a winning ticket must, prior to the running of the second designated race of the twin trifecta, exchange such winning ticket for both: (1) the monetary value from the first part of the divided pool, as established by the mutuel department of the permit holder, and (2) a twin trifecta exchange ticket which designates the bettor's selection of the three horses for finish in that order in the second designated race of the twin trifecta. No further money shall be required of the holder of the winning ticket in order to

make the exchange. Until the second race of the twin trifecta has been declared official, no person shall disclose the number of winning twin trifecta tickets eligible for exchange in the second twin trifecta race, nor shall any person disclose any information regarding those tickets during the exchange process.

(H) No twin trifecta exchange tickets upon the second race of the twin trifecta shall be issued except upon surrender of the winning twin trifecta ticket from the first race of the twin trifecta as described in this rule. Windows for the purpose of cashing and exchanging twin trifecta tickets shall be open only after the first race of the twin trifecta has been declared official and such windows shall close when wagering closes for the race designated as the second race of the twin trifecta.

(I) If a winning twin trifecta ticket from the first race is not presented for cashing and exchange within the time provided above, the bettor may still collect the monetary value attached to the ticket but forfeits all rights to any distribution of the second race twin trifecta pool.

(J) If a horse is scratched or declared a nonstarter in the first race of the twin trifecta, all twin trifecta tickets issued which include the scratched horse will be refunded. If a horse is scratched late in the second race of the twin trifecta, public address announcements will be made and a reasonable time, as determined by the mutuel manager and presiding judge, will be given for exchange of tickets on the scratched horse. If such an announcement and reasonable time cannot be made, the stewards may provide for the distribution of the second part of the program's divided pool as provided for in paragraph (M) of this rule. A horse which is declared a non-starter in the second race of the twin trifecta shall be deemed a starter for the purposes of paragraphs (L) and (N) of this rule.

(K) In the event of a dead heat or dead heats in either the first or second half of the twin trifecta, all twin trifecta tickets selecting the correct order of finish counting a horse in a dead heat as finishing in any position deadheaded shall be winning tickets. In the case of a dead heat occurring in either the first or last half of the twin trifecta, the pools shall be calculated as a place pool.

The payoff price shall be calculated as in a place pool. The winning combinations shall include the first two horses finishing in either position and the horse finishing third.

(L) In the event there is no twin trifecta ticket issued accurately selecting the officially declared first three finishers of the second twin trifecta race in the exact order, such second race pool, as divided earlier, shall be held for the next consecutive racing day program and combined with that program's second race twin trifecta pool. This sum shall be termed the "carryover jackpot." Distribution of this special cumulative second race twin trifecta pool shall be made only upon the accurate selection, in exact order, of the first three officially declared finishers of the designated second race of the twin trifecta except on designated mandatory payout performances (see paragraph (N) of this rule).

(M) If, for any reason, the second half of the twin trifecta contest is officially cancelled or officially declared "no contest", all exchange tickets and outstanding first half winning twin trifecta tickets shall be entitled to the remaining amount of the current program's divided pool. The carryover pool will remain undistributed.

(N) On a mandatory distribution performance, the current carryover jackpot plus the second half pool from the program will be combined and distributed to the holders of exchange tickets who selected horses in exact official order of finish in the following order of priority:

(1) (1-2-3) if none, then (2) (1-2-all) if none, then (3) (1-all-all) if none, then (4) (all-all-all)

(O) On a scheduled mandatory distribution performance, if there are no first half tickets selecting one of the combinations in paragraph (F) of this rule, then aside from the refund of all twin trifecta tickets referred to in paragraph (F) of this rule, the current carryover jackpot will not be distributed, but will carry over to the next racing day. That next day must also be designated a mandatory distribution performance for which the same order of priority rules in paragraph (F) of this rule apply. When advertising a mandatory distribution performance, permit holders should include a disclaimer covering this one exception.

(P) On a scheduled mandatory payout day, if the second half of the twin trifecta contest is officially cancelled or declared "no contest", all exchange tickets will be entitled to share in the carryover pool.

(Q) Sales of twin trifecta tickets other than from the permit holder's ticket-issuing machines or from one individual to another shall be deemed illegal and prohibited. Exchange tickets shall be nontransferable. Holders of transferred exchange tickets shall not be entitled to any winnings. Persons involved in the unauthorized transfer of exchange tickets shall be subject to ejection from the parimutuel facility. *Effective: 1-1-85; 5-21-90, 6-1-93; 9-1-94; 6-1-95; 1-1-04*

### **3769-13-25. Tri-super wagering**

(A) The object of the tri-super is to select in one combination, and on one ticket, three horses or separate betting interests (if field or entry horses are involved), that will finish first, second, and third in exact order, as officially posted, in the first designated race. Then, after exchanging such winning tickets, select four horses or betting interests that will finish first, second, third, and fourth in exact order in the second designated race, as officially posted. Permit holders may give different names to this type of wagering but should notify the commission of such choice of names. Not more than one race may elapse between the first and second races of this wager and such races must be clearly designated in the program.

(B) The tri-super is calculated as an entirely separate pool and is calculated as a win pool.

(C) After wagering closes on the first half of the tri-super, the commission on the pool will be deducted in accordance with the laws of the state of Ohio and the remaining net pool will be divided into two separate pools of equal amounts.

(D) The money in the first part of the divided pool shall be distributed to the holders of tickets selecting the first three horses in exact order of the first race of the designated tri-super. The term "first part of divided pool" refers to one-half of the net pool of the total money wagered in the tri-super on the current day's program only, and specifically excludes any cumulative pool from previous days' programs.

(E) The second half of the net pool will be placed in a separate pool, called the carryover pool, for those holders of "second-half" tickets that select the first four horses in exact order in the second designated race.

(F) In the first designated race only, except on mandatory payout days, if no ticket is sold selecting the first three finishers in exact order, no exchange tickets will be issued and only monetary payoffs will be paid to those winners selecting finishers in the following order of priority:

(1) (1-2-all) if none, then (2) (1-all-all)

Any ticket within the applicable order of priority as aforesaid shall be deemed a winning ticket entitling the

holder thereof to the applicable payoff from the first part of the divided pool. If none of the above combinations produce a winning ticket, the tri-super shall be cancelled for the day and a complete refund of the day's tri-super pool shall be made to all holding valid tri-super tickets (all-all-all). On mandatory payout days only, if no ticket selects the first three horses of the first race of the tri-super in exact order, the above order of priority will be used to issue an exchange ticket as well as pay the applicable share of the first part of the divided pool.

(G) In the event of a dead heat in either the first or second race of the tri-super, all tickets with the correct order of finish counting a horse in the dead heat as finishing in any position dead-heated shall be a winning ticket and the payoff shall be calculated as a place pool. In the case of a dead heat where there is no winning ticket on one dead heat combination, the entire net pool will go to the other winning combination(s).

(H) After the first race of the designated tri-super is declared official, each bettor holding a winning ticket must, prior to the second designated race, exchange such ticket for the monetary value as determined by the mutuel department and a tri-super exchange ticket selecting the first four finishers of the second designated race in exact order. No further money shall be required to make such exchange. Until the second race of the tri-super has been declared official, no person shall disclose the number of winning tri-super tickets eligible for exchange in the second tri-super race, nor shall any person disclose any information regarding those tickets during the exchange process.

(I) No tri-super exchange ticket can be issued except upon surrender of a winning ticket from the first race of the tri-super as described above. If a winning ticket from the first race is not presented for cashing and exchange before the closing of the second race, the holder may still collect the monetary value but forfeits all right to any distribution of the second race pool of the tri-super.

(J) If a horse is scratched or declared a non-starter in either race of this wager before the running of the first race, all tri-super tickets on the scratched horse or horses will be refunded and a reasonable time will be made available for new selections. If a horse is scratched in the second race after the first race has become official and the exchange has begun, then all tri-super exchange tickets on the scratched horse or horses may be re-exchanged. If a horse is scratched late in the second race of the tri-super, public address announcements will be made and a reasonable time, as determined by the mutuel manager and presiding judge, will be allowed for such exchange. If such an announcement and reasonable time cannot be made, the judges may provide for the distribution of the second part of the programs divided pool as provided for in paragraph (L) of this rule. A horse which is declared a non-starter in the second race of the tri-super shall be deemed a starter for the purposes of paragraphs (K) and (N) of this rule.

(K) In the event there is no tri-super exchange ticket selecting the first four horses in exact order as officially posted, the second half of the divided pool shall be held for the next consecutive racing program and placed in the carryover pool. Distribution of this pool will be only to those who select the first four runners of the second designated race of the tri-super in exact order as officially posted, unless there is a "mandatory" payout.

(L) If, for any reason, the second half of the tri-super contest is officially cancelled or officially declared "no contest", all exchange tickets and outstanding first half winning tri-super tickets shall be entitled to the remaining amount of the current program's divided pool. The carryover pool will remain undistributed.

(M) On a scheduled mandatory payout performance, first half tickets must select one combination in the order of priority in paragraph (F) of this rule. If there are no first half tickets with such selections, then aside from the refund of all tri-super tickets referred to in paragraph (F) of this rule, the carryover jackpot will not be distributed but will carry over to the next racing day. The next day will also be designated a mandatory payoff performance for which the same order of priority in paragraph (F) of this rule will apply. When advertising such a mandatory payoff distribution, permit holders should include a disclaimer covering this one exception.

(N) On a scheduled mandatory distribution performance, the current carryover jackpot plus the second half pool from the current program will be combined and distributed equally to holders of exchange tickets selecting horses in exact official order of finish in the following order of priority:

- (1) (1-2-3-4) if none, then
- (2) (1-2-3-all) if none, then
- (3) (1-2-all-all) if none, then
- (4) (1-all-all-all) if none, then
- (5) (All-all-all-all)

(O) On a scheduled mandatory payout day, if the second half of the tri-super contest is officially cancelled or declared "no contest", all exchange tickets and outstanding first half winning tri-super tickets will be entitled to share in the carryover pool.

(P) Sales of tri-super tickets other than from the permit holder's ticket-issuing machines or from one individual to another shall be deemed illegal and prohibited. Exchange tickets shall be nontransferable. Holders of transferred exchange tickets shall not be entitled to any winnings. Persons involved in the unauthorized transfer of exchange tickets shall be subject to ejection from the parimutuel facility. *Effective: 1-1-85; 5-21-90; 3-20-95; 1-1-04*

### **3769-13-26. Twin-super wagering**

(A) The object of the twin-super is to select the four horses, or separate betting interests (if field or entry horses are involved), that will finish first, second, third, and fourth in exact order, as officially posted, in the first designated race. Then, after exchanging such winning tickets, select four horses or betting interests that will finish first, second, third, and fourth in exact order in the second designated race, as officially posted. Permit holders may give different names to this type of wagering but should notify the commission of such choice of names. Not more than one race may elapse between the first and second races of this wager and such races must be clearly designated in the program.

(B) The twin-super is calculated as an entirely separate pool and is calculated as a win pool.

(C) After wagering closes on the first half of the twin-super, the commission on the pool will be deducted in accordance with the laws of the state of Ohio and the remaining net pool will be divided into two separate pools of equal amounts.

(D) The money in the first part of the divided pool shall be distributed to the holders of tickets selecting the first four horses in exact order of the first race of the designated twin-super. The term "first part of divided pool" refers to one-half of the net distributable pool of the total money wagered in the twin-super on the current day's program only and specifically excludes any cumulative pool from previous days' programs.

(E) The second half of the distributable pool will be placed in a separate pool, called the carryover pool, for

those holders of "second-half" tickets that select the first four horses in exact order in the second designated race.

(F) In the first race of the twin-super only, except on mandatory payout days, if no ticket is sold selecting the first four horses in exact order, as officially posted, no exchange tickets will be issued and only monetary payoffs will be made to those having tickets selecting, in the following order of priority: (1) (1-2-3-all) if none, then (2) (1-2-all-all) if none, then (3) (1-all-all-all)

Any ticket within the applicable order of priority as aforesaid shall be deemed a winning ticket entitling the holder thereof to the applicable payoff from the first part of the divided pool. If none of the above produce a winning ticket, a complete refund of the twin-super pool for the day will be made to those holding valid twin-super tickets (all-all-all-all) and the twin-super will be cancelled for that racing program. On mandatory payout days only, if no ticket selects the first four horses of the first race of the twin-super in exact order, the above order of priority will be used to issue an exchange ticket as well as pay the applicable share of the first part of the divided pool.

(G) In the event of a dead heat in either the first or second race of the twin-super, all tickets with the correct order of finish counting a horse in a dead heat as finishing in any position dead-heated, shall be a winning ticket and the payoff shall be calculated as a place pool. In the case of a dead heat where there is no winning ticket on one dead heat combination, the entire net pool will go to the other winning combination(s).

(H) After the first race of the designated twin-super is declared official, each bettor holding a winning ticket must, prior to the second designated race, exchange such ticket for the monetary value as determined by the mutuel department and a twin-super exchange ticket selecting the first four finishers of the second designated race in exact order. No further money shall be required to make such exchange. Until the second race of the twin-super has been declared official, no person shall disclose the number of winning twin-super tickets eligible for exchange in the second twin-super race, nor shall any person disclose any information regarding those tickets during the exchange process.

(I) No twin-super exchange ticket can be issued except upon surrender of a winning ticket from the first race of the twin-super as described above. If a winning ticket from the first race is not presented for cashing and exchange before the closing of the second race, the holder may still collect the monetary value but forfeits all right to any distribution of the second race pool.

(J) If a horse is scratched or declared a non-starter in either race of this wager before the running of the first race, all twin-super tickets on the scratched horse or horses will be refunded and a reasonable time will be made available for new selections. If a horse is scratched in the second race after the first race has become official and the exchange has begun, then all twin-super exchange tickets on the scratched horse or horses may be re-exchanged. Public address announcements will be made and a reasonable time, as determined by the mutuel manager and presiding judge, will be allowed for such exchange. If such an announcement and reasonable time cannot be made, the judges may provide for the distribution of the second part of the program's divided pool as provided for in paragraph (L) of this rule. A horse which is declared a non-starter in the second race of the twin-super shall be deemed a starter for the purposes of paragraphs (K) and (N) of this rule.

(K) In the event there is no twin-super exchange ticket selecting the first four horses in exact order as officially posted, the second half of the divided pool shall be held for the next consecutive racing program and placed in the carryover pool. Distribution of this pool will be only to those who select the first four horses of the second designated race in exact order as officially (FN1) unless there is a "mandatory" payout.

(L) If, for any reason, the second half of the twin-super contest is officially cancelled or officially declared "no contest", all exchange tickets and outstanding first half winning twin-super tickets shall be entitled to the remaining amount of the current program's divided pool. The carryover pool will remain undistributed.

(M) On a scheduled mandatory payout performance, first half tickets must select one combination in order of priority in paragraph (F) of this rule. If there are no first half tickets with such selections, then aside from the refund of all twin-super tickets referred to in paragraph (F) of this rule, the carryover jackpot will not be distributed but will carry over to the next racing day. The next day will also be designated a mandatory payoff performance for which the same order of priority in paragraph (F) of this rule will apply. When advertising such a mandatory payoff distribution, permit holders should include a disclaimer covering this one exception.

(N) On a scheduled mandatory distribution performance, the current carryover jackpot plus the second-half pool from the current program will be combined and distributed equally to holders of exchange tickets in exact official order of finish in the following order of priority:

- (1) (1-2-3-4) if none, then
- (2) (1-2-3-all) if none, then
- (3) (1-2-all-all) if none, then
- (4) (1-all-all-all) if none, then
- (5) (All-all-all-all)

(O) On a scheduled mandatory payout day, if the second half of the twin-super contest is officially cancelled or declared "no contest", all exchange tickets and outstanding first half winning twin-super tickets will be entitled to share in the carryover pool.

(P) Sales of twin-super tickets other than from the permit holder's ticket-issuing machines or from one individual to another shall be deemed illegal and prohibited. Exchange tickets shall be nontransferable. Holders of transferred exchange tickets shall not be entitled to any winnings. Persons involved in the unauthorized transfer of exchange tickets shall be subject to ejection from the parimutuel facility. *Effective: 1-1-85; 1-1-87; 11-19-88; 5-21-90; 3-20-95; 1-1-04*

**3769-13-27. Win three pools**

(A) The win three requires selection of the first-place finisher in each of three specified contests.

(B) The net win three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then;

(2) As a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then;

(3) As a single price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then;

(4) The entire pool shall be refunded on win three wagers for those contests.

(C) If there is a dead heat for first in any of the three contests involving:

(1) Contestants representing the same betting interest, the win three pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the win three pool shall be distributed as follows.

(a) As a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then;

(b) As a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then;

(c) As a single price pool to those who selected the first place finisher in any one of the three contests; but if there are no such wagers, then;

(d) The entire win three pool shall be refunded.

(D) Should a betting interest be scratched from a leg of the win three all bets with the scratched betting interest will be handled as follows:

(1) If the scratch (which herein after includes being declared a non-starter or a non-betting starter) was made prior to the start of the first leg, all bets containing such scratched betting interest shall be refunded to determine the gross pool and removed from further consideration in the pool;

(2) If the scratch was made in the second leg after the start of the first leg, a consolation payoff shall be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: from the gross pool shall be deducted the statutory takeout and then the amount represented by the bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). The resulting remainder shall be divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with the betting interest scratched in the second leg. The break shall not be deducted from the pool.

(3) If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff shall be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: from the gross pool shall be deducted the statutory take-out and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). The resulting remainder shall be divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with a betting interest scratched in the third leg. The breaks shall not be deducted from the pool.

(4) If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff shall be computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: from the gross pool shall be deducted the takeout and the remainder shall be divided by the amount bet on the winner of the first leg combined with all other betting interests (less breaks) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratch betting interests from both the second and third legs.

(E) If all three win three contests are cancelled or declared "no contest", the entire pool shall be refunded on win three wagers for those contests.

(F) If one or two of the win three contests are cancelled or declared "no contest", the win three pool will remain valid and shall be distributed in accordance with paragraph (B) of this rule.

(G) If the win three pool is distributed according to paragraphs (C)(2)(b) or (c) a public announcement shall be made as to the possible winning three combinations.  
*Effective: 6-6-88; 11-19-88; 5-21-90; 5-4-92; 1-1-09*

### 3769-13-28. Pick (n) pools

(A) The pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in paragraph B of this rule and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission.

(B) The pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, pick (n) with carryover: The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, pick (n) with minor pool and carryover: The major share of the net pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, pick (n) with no minor pool and no carryover: The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, pick (n) with minor pool and no carryover: The major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests. If the greatest number of first-place finishers selected is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, pick (n) with minor pool and no carryover: The major share of net pick (n) pool shall be

distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) contests, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) contests. If there are no winning wagers, the pool is refunded.

(6) Method 6, pick (n) with minor pool, jackpot pool, major carryover and jackpot carryover: Predetermined percentages of the net pick (n) pool shall be set aside as a major pool, minor pool and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, shall be distributed to those who selected the first-place finisher of each of the pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) contests, the major net pool shall be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) contests, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) contests the jackpot net pool shall be added to the jackpot carryover. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor net pool of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) contests.

(C) If there is a dead heat for first in any of the pick (n) contests involving:

(1) Contestants representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(D) Should a betting interest in any of the pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(E) The pick (n) pool shall be cancelled and all pick (n) wagers for the individual performance shall be refunded if:

(1) At least two contests included as part of a pick 3 are cancelled or declared "no contest."

(2) At least three contests included as part of a pick 4, pick 5 or pick 6 are cancelled or declared "no contest."

(3) At least four contests included as part of a pick 7, pick 8 or pick 9 are cancelled or declared "no contest."

(4) At least five contests included as part of a pick 10 are cancelled or declared "no contest."

(F) If at least one contest included as part of a pick (n) is cancelled or declared "no contest", but not more than the number specified in paragraph E of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

(G) If the condition of the course warrants a change of racing surface in any of the legs of the pick (n) races, and such change was not known to the public prior to the closing of wagering for the pick (n) pool, the stewards shall declare the changed leg(s) a "no contest" for pick (n) wagering purposes only. A "no contest" race is not to be considered as a contested race.

(H) The pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, one hundred percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) contests for that performance.

(I) A written request for permission to distribute the pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(J) Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the commission as provided in paragraph H of this rule.

(2) Upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued.

(3) On the closing performance of the meet or split meet.

(K) If, for any reason, the pick (n) carryover must be held over to the corresponding pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and performance so designated by the commission.

(L) With the written approval of the commission, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

(M) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit

necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(N) The association may suspend previously-approved pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific performances. *Effective: 5-21-90; 1-1-93; 8-1-94; 1-1-09*

**3769-13-29. Pick eight wagering**

Repealed. *Effective: 5-21-90; 1-1-93*

**3769-13-30. Quinella double and perfecta double wagering**

(A) The object of these wagers is to select a quinella as defined in paragraph (A) of rule 3769-13-20 or a perfecta as defined in paragraph (A) of rule 3769-13-21 of the Administrative Code in each of two consecutive races prior to the first race of the consecutive races with no exchange of tickets between the first and second race. Permit holders may use other names for these wagers but the commission must be notified of such name changes.

(B) These pools are entirely separate pools and are generally calculated as a win pool.

(C) If a horse is scratched prior to the first race of each type of wager, all tickets sold on the scratch horse will be refunded.

(D) In either wager, if a horse is scratched after the first race is run, all tickets combining winning combination(s) in the first race with the scratched horse in the second shall become consolation tickets and will be paid that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winners of the first race of the particular wager. The total payoff on all tickets combining the winners of the first race of either wager with the scratched horse in the second race of either wager as determined by the method set forth in this rule shall be deducted from the net pool.

(E) In either wager, if there is a dead heat for win or place in the first race, combinations eligible for payoffs in regular quinellas (see paragraphs (D) and (E) of rule 3769-13-20) and perfectas (see paragraphs (D) and (E) of rule 3769-13-21 of the Administrative Code) respectively will be considered eligible for participation in the second race of the quinella double or perfecta double.

(F) In the event of a dead heat for win or place in the second race of these wagers, the pool will be calculated and distributed as a place pool to those having selected the first race correctly and those having selected the combinations in the second race that would be eligible for a payoff in either a regular quinella or perfecta respectively.

(G) If, for any reason, the first race is cancelled or declared no contest, in either wager, a full and complete refund of the appropriate pool shall be made.

(H) If the second race of either wager is cancelled, the pool shall be calculated as a win pool and distributed to those holding tickets combining the winning horses in the first race of the wager. *Effective: 5-21-90*

**3769-13-31. Pick seven wagering**

Repealed. *Effective: 8-1-91; 1-1-93*

**3769-13-32. Telephone account wagering**

(A) Holders of horse racing permits issued by the Ohio state racing commission may manage a telephone account

wagering system for the purpose of keeping telephone deposit accounts and accepting telephone wagers.

(1) Individuals who have a deposit account with the telephone account wagering system shall be permitted to wager by telephone. The telephone account wagering system shall accept wagers up to the amount posted to the credit of such account at the time the wager is placed. Any racing official whose appointment must be approved by the commission, or any licensee who is denied access to the grounds pursuant to rules 3769-12-08 and 3769-14-05 of the Administrative Code may not open or have in his/her name a telephone account.

(2) The permit holder shall accept telephone wagering accounts in the name of a natural person only. The permit holder shall not accept any corporate, partnership, joint, trust, beneficiary or custodial telephone wagering account.

(3) The telephone deposit account is non-transferable.

(4) An applicant for a deposit account shall give his/her name, address, telephone number, and social security number. Said applicant shall also supply a secret code word. Applicants for deposit accounts must present adequate proof that they have attained the age of eighteen. Any person who gives any false name or other information when applying for a deposit account may have the account cancelled without notice by the permit holder.

(a) The address provided in writing by the account holder to the permit holder is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence.

(b) The mailing of checks or other correspondence to the address given by the account holder shall be the sole risk of the account holder.

(5) At the time of applying for a telephone deposit account, each person shall select a code word to be used as identification when wagering. Both the permit holder and the account holder have the right to change this code word at any time without explanation by informing the other party in writing of said change and the effective date thereof.

(6) Each deposit account shall have a unique identifying account number. Such number may be changed at any time provided the permit holder informs the account holder in writing of the change.

(7) The permit holder reserves the right to refuse deposits to accounts for any reason whatsoever.

(8) The permit holder has the right to suspend any account or to close any account at any time provided that when an account is closed, the permit holder shall return to the account holder such moneys as are on deposit at the time of said action.

(9) All persons shall adhere to such other methods of identification as the commission may require.

(B) An account holder shall receive at the time the account is opened an identification card, a summary of the rules, an explanation of the procedures then in force for depositing to, withdrawing from and closing the account; a telephone number to be utilized by account holder to be kept confidential; a description of the mechanics of wagering; and such other information as the commission may deem appropriate. As part of its rules, the permit holder may, with the approval of the commission, impose a reasonable service fee.

(C) Deposits to and withdrawals from existing accounts shall be permitted only in such form and by such procedures as the permit holder may require. Signed requests for withdrawals from existing accounts will be processed within seven days of the date of the request and the withdrawal amount sent to the account holder.

(1) Checks may be offered for a deposit in a deposit account, however, the check shall not be posted to the credit of the account holder until cleared by the bank upon which the check is drawn.

(2) Moneys deposited with the permit holder for telephone wagering shall not bear any interest to the account holder.

(D) In the event an account holder is deceased, funds in the account shall be released to the decedent's legal representative upon receipt of a copy of a valid death certificate and such tax releases, probate court authorizations and other documents required by applicable laws.

(E) Telephone wagers shall be accepted on those days that the permit holder is conducting live racing at its track as designated by the commission.

(1) Notwithstanding any other rules, the managing employee of the permit holder's telephone account wagering system may at any time, upon prior approval of the commission, declare the telephone account wagering system closed for receiving telephone wagers on any pari-mutuel pool, race, group of races, or closed for all wagering.

(2) The permit holder has the right at any time and for what it deems good and sufficient reason to refuse to accept all or part of any wager.

(3) Except as otherwise provided in the administrative code [sic], all telephone wagers are final and no wager shall be cancelled at any time after the wager has been accepted by the telephone account wagering system, unless the race on which the wager was made is cancelled. Should equipment in use in the telephone account wagering system have ready cancellation capability of single wagers, cancellations may be permitted but only during the single wagering conversation in which the wager to be cancelled was made. Once a wagering conversation has ended, all wagers made in such conversation are final and irrevocable.

(F) All wagering conversations will be recorded by the permit holder and the tapes of said conversation kept for a period of forty five days following the close of each meet. These wagering conversation tapes shall be made available immediately to any member of the Ohio state racing commission or any commission employee upon request.

(G) Payment on winning pari-mutuel telephone wagers shall be posted to the credit of the account holder automatically as soon as practicable after the race is declared official.

(H) The permit holder shall, within thirty days of the close of each meet, or at any time there is no racing at that track for a period of more than thirty days, provide written statements of account activity to all account holders. In addition, an account holder has the right to request and be provided a statement at any time. Unless written notice to the contrary is received by the permit holder within twenty-one days of the date that any such statement is mailed to an account holder, said statement will be deemed accepted as correct in any and all particulars.

(I) Except to a member of the Ohio state racing commission or any Ohio state racing commission employee, no employee of the permit holder shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the telephone account wagering system.

(J) The commission shall determine the acceptability of the telephone account wagering system's equipment configuration. Any telephone communication system, whether touch tone, voice response, or operator controlled, must be linked to the permit holders [sic] totalization system in a manner approved by the commission.

(K) No televised racing signal, used in conjunction with telephone account wagering, shall be sent into any area within fifty miles of a commercial permit holder's race track during the hours that live racing is being conducted that day at such race track, and one hour prior thereto, unless the permit holder at such track gives its prior written consent to the transmission of the racing signal into the involved fifty mile area.

(L) From each telephone wager, there shall be deducted the same percentage as is deducted on a wager made in person at the permit holder's race track. *Effective: 1-1-93; 1-1-95*

**3769-13-33. Emergency common pool wagering procedures**

(A) When data line transmission failure occurs which results in partial or no commingling with a host track, thus not permitting a manual merge, all associations shall pay host track parimutuel payouts for all applicable pools except for multiple race pools, superfecta pools and super high five pools and superfecta pools where there shall be a refund of all wagers. The associations shall immediately notify the commission in writing when a data line transmission failure occurs.

(B) All associations underpayments, due to the failure to commingle with a host track when paying host track parimutuel payouts, shall be deposited in a separate interest bearing escrow account. All accrued interest shall remain in the escrow account. The associations shall also be permitted to draw from their escrow account to cover all or part of an overpayment due to an inability to commingle. If the escrow account is not sufficient to cover said overpayment, the association shall be held liable for the overpayment. A full report of such actions shall be submitted to the executive director of the commission. Before the escrow account can be accessed the associations must have written approval from the executive director of the commission.

(C) If a surplus exists in the escrow account on December thirty first of any calendar year, it may be distributed by the commission to horse racing-related programs which include, but are not limited to, equine and drug testing research, special wagering formats and promotions. *Effective: 1-1-85; 12-5-94; 3-1-96; 9-15-97; 2-2-08; 1-1-09*

**3769-13-34 Pick (n) pools**

(A) The place pick (n) requires selection of the first or second-place finisher in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of place pick (n) contests, the designation of one of the methods prescribed in paragraph (B) of this rule, the distinctive name identifying the pool and the amount of any cap to be set on the carryover. Any changes to the approved place pick (n) format require prior approval from the commission.

(B) The place pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, place pick (n) with carryover: The net place pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first or second-place finisher in each of the place pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of

place pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, place pick (n) with minor pool and carryover: The major share of the net place pick (n) pool and the carryover, if any, shall be distributed to those who selected the first or second-place finisher in each of the place pick (n) contests, based upon the official order of finish. The minor share of the net place pick (n) pool shall be distributed to those who selected the first or second-place finisher in the second greatest number of place pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first or second-place finisher of all place pick (n) contests, the minor share of the net place pick (n) pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of place pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, place pick (n) with no minor pool and no carryover: The net place pick (n) pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of place pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, place pick (n) with minor pool and no carryover: The major share of the net place pick (n) pool shall be distributed to those who selected the first or second-place finisher in the greatest number of place pick (n) contests, based upon the official order of finish. The minor share of the net place pick (n) pool shall be distributed to those who selected the first or second-place finisher in the second greatest number of place pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first or second-place finisher in a second greatest number of place pick (n) contests, the minor share of the net place pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first or second-place finisher in the greatest number of place pick (n) contests. If the greatest number of first or second-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, place pick (n) with minor pool and no carryover: The major share of net place pick (n) pool shall be distributed to those who selected the first or second-place finisher in each of the place pick (n) contests, based upon the official order of finish. The minor share of the net place pick (n) pool shall be distributed to those who selected the first or second-place finisher in the second greatest number of place pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first or second-place finisher in all place pick (n) contests, the entire net place pick (n) pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of place pick (n) contests. If there are no wagers selecting the first or second-place finisher in a second greatest number of place pick (n) contests, the minor share of the net place pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first or second-place finisher in each of the place pick (n) contests. If there are no winning wagers, the pool is refunded.

(C) If there is a dead heat for first in any of the place pick (n) contests involving:

(1) Contestants representing the same betting interest, the place pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the place pick (n) pool shall be distributed as a single price pool with a winning wager including each betting interest participating in the dead heat.

(D) If there is a dead heat for second in any of the place pick (n) contests involving:

(1) Contestants representing the same betting interest, the place pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the place pick (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first or any betting interest involved in the dead heat for second.

(E) Should a betting interest in any of the place pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(F) The place pick (n) pool shall be cancelled and all place pick (n) wagers for the individual performance shall be refunded if:

(1) At least two contests included as part of a place pick 3 are cancelled or declared "no contest."

(2) At least three contests included as part of a place pick 4, place pick 5 or place pick 6 are cancelled or declared "no contest."

(3) At least four contests included as part of a place Pick 7, place pick 8 or place pick 9 are cancelled or declared "no contest."

(4) At least five contests included as part of a place pick 10 are cancelled or declared "no contest."

(G) If at least one contest included as part of a place pick (n) is cancelled or declared "no contest", but not more than the number specified in paragraph (F) of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of place pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the place pick (n) carryover but not the carryover from previous performances.

(H) The place pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the place pick (n) carryover equals or exceeds the designated cap, the place pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the place pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the place pick (n) carryover, shall be distributed to those whose selection finished first or second in the greatest number of place pick (n) contests for that performance.

(I) A written request for permission to distribute the place pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(J) Should the place pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first or second-place

finisher in each of the place pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of place pick (n) contests. The place pick (n) carryover shall be designated for distribution on a specified date and performance under any of the following circumstances:

(1) Upon written approval from the commission as provided in paragraph I of this rule.

(2) Upon written approval from the commission when there is a change in the carryover cap, a change from one type of place pick (n) wagering to another, or when the place pick (n) is discontinued.

(3) On the closing performance of the meet or split meet.

(K) If, for any reason, the place pick (n) carryover must be held over to the corresponding place pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The place pick (n) carryover plus accrued interest shall then be added to the net place pick (n) pool of the following meet on a date and performance so designated by the commission.

(L) With the written approval of the commission, the association may contribute to the place pick (n) carryover a sum of money up to the amount of any designated cap.

(M) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

(N) The association may suspend previously-approved place pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended place pick (n) wagering is reinstated. An association may request approval of a place pick (n) wager or separate wagering pool for specific performances. (1-1-09)

### **3769-13-35 Super high five wagering**

(A) The super high five requires selection of the first five finishers, in their exact order, for a single contest. The super high five pool shall be apportioned under the following method. "The super high five with carryover". The net super high five pool and carryover, if any, shall be distributed as a single priced pool to those who selected the first five finishers, in their exact order, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool known as the super high five consolation pool, if any, shall be distributed as a single price pool as prescribed in paragraph B of this rule and the remainder shall be added to the carryover.

(B) The net super high five pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single price pool to those whose combination finished in correct sequence as the first five betting interests; but if there are no such wagers, then;

(2) As a single price pool to those whose combination included, in correct sequence, the first four betting interests; but if there are no such wagers, then;

(3) As a single price pool to those whose combination included, in the correct sequence, the first three betting interests; but if there are no such wagers, then;

(4) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then;

(5) As a single price pool to those whose combination correctly selected the first- place betting interest only; but if there are no such wagers, then;

(6) The entire pool shall be refunded on the super high five wagers for that contest.

(C) If less than five betting interests finish and the contest is declared official, the payoff shall be made from the super high five consolation pool, and shall be made to holders of tickets correctly selecting the actual finishing horses in exact order, ignoring the balance of the selection. In this event, the previous days carryover will be carried over to the next regularly scheduled super high five race.

(D) If there is a dead heat for first involving:

(1) Contestants representing five or more betting interests, all of the wagering combinations selecting five betting interests which correspond with any of the betting interests involved in the dead heat shall share in the profit split.

(2) Contestants representing four betting interests, all of the wagering combinations selecting the four dead-heated betting interests, irrespective of order, along with the fifth-place betting interest shall share in a profit split.

(3) Contestants representing three betting interests, all of the wagering combinations selecting the three-dead heated betting interests, irrespective of order, along with the fourth-place and fifth-place betting interest shall share in a profit split.

(4) Contestants representing two betting interests, irrespective of order, along with the third-place, fourth-place and fifth-place betting interests shall share in a profit split.

(E) If there is a dead heat for second involving:

(1) Contestants representing four or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the four betting interests involved in the dead heat for second shall share in a profit split.

(2) Contestants representing three betting interest, all of the wagering combinations correctly selecting the winner, the three dead-heated betting interests, irrespective of order, and the fifth-place betting interest shall share in the profit split.

(3) Contestants representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place and fifth-place betting interest shall share in a profit split.

(F) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with two of the betting interests involved in the dead heat for third shall share in the profit split.

(G) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

(H) If there is a dead heat for fifth, all wagering combinations correctly selecting the first four finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fifth shall share in a profit split.

(I) The super high five race shall have a minimum of at least eight starters or there shall be a refund of all wagers. Coupled entries and mutuel fields shall be prohibited in super high five contests.

(J) A written request for permission to distribute the super high five carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit

to be derived, and the intended date and performance for the distribution.

(K) Should the super high five carryover be designated for distribution on a specific date and performance in which there are no wagers selecting the first five finishers in exact order, then the entire pool shall be distributed as a single price pool as prescribed in paragraph B of this rule. In the event no ticket has been sold correctly selecting the winning horse to finish first, then the gross super high five pool will be refunded, and the carryover distributed equally to all closing day super high five ticket holders. The super high five shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the Commission as provided in paragraph J of this rule.

(2) Upon written approval from the Commission if the super high five is discontinued.

(3) On the closing performance of the meet or split meet.

(L) If, for any reason, the super high five carryover must be held over to the corresponding super high five pool of a subsequent meet, the carryover shall be deposited in an interest bearing account approved by the commission. The super high five carryover plus the accrued interest shall be added to the net super high five pool of the following meet on a date and performance so designated by the commission. *Effective: 1-1-09*

### **3769-13-36 Exacta (n) pool**

(A) The Exacta(n) requires selection of the first two finishers, in their exact order, in each of a designated number of contests. The association must obtain written approval from the commission concerning the scheduling of exacta(n) contests, the designation of one of the methods prescribed in paragraph B of this rule, and the amount of any cap to be set on the carryover. Any changes to the approved exacta(n) format require prior approval from the commission.

(B) The exacta(n) pool shall be apportioned under one of the following methods:

(1) Method 1, exacta(n) with no minor pool and no carryover: The net exacta(n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta(n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta(n) contests, the net exacta(n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta(n) contests. If there are no winning wagers, the entire pool shall be refunded on exacta(n) wagers for those contests.

(2) Method 2, exacta(n) with no minor pool and carryover instead of a refund: The net exacta(n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta(n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta(n) contests, the net exacta(n) pool and the carryover shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta(n) contests. If there are no winning wagers, the net exacta(n) pool shall be added to the carryover.

(3) Method 3, exacta(n) with no minor pool and carryover: The net exacta(n) pool and the carryover, if any, shall be distributed as a single price pool to those who

selected the first and second place finishers, in the exact order, in each of the exacta(n) contests, based upon the official order of finish. If there are no winning wagers, the net exacta(n) pool shall be added to the carryover.

(4) Method 4, exacta(n) with minor pool and no carryover: The major share of the net exacta(n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta(n) contests, based upon the official order of finish. The minor share of the net exacta(n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the second greatest number of exacta(n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta(n) contests, the major share of the net exacta(n) pool shall be combined with the minor share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta(n) contests. If there are no wagers selecting the first and second place finishers, in exact order, in a second greatest number of exacta(n) contests, the minor share of the net exacta(n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta(n) contests. If there are no winning wagers, the pool shall be refunded on exacta(n) wagers for those contests.

(5) Method 5, exacta(n) with minor pool and carryover: The major share of the net exacta(n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta(n) contests, based upon the official order of finish. The minor share of the net exacta(n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the second greatest number of exacta(n) contests, based on the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta(n) contests, the minor share of the net exacta(n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of exacta(n) contests, and the major share shall be added to the carryover. If there are no wagers selecting the first and second place finishers, in exact order, in a second greatest number of exacta(n) contests, the minor share of the net exacta(n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta(n) contests, or if there are no such winning wagers, added to the carryover.

(6) Method 6, exacta(n) with minor pool based upon any one exacta, and no carryover: The major share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the major share of the net exacta (n) pool shall be combined with the minor share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in at least one of the exacta (n)

contests. If there are no winning wagers, the pool is refunded.

(7) Method 7, exacta (n) with minor pool based upon any one exacta, and carryover: The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the exacta (n) contests, the major share shall be added to the carryover. If there are no wagers selecting the first and second place finishers, in exact order, in any of the exacta (n) contests, the minor share of the net exacta (n) pool shall also be added to the carryover.

(8) Method 8, exacta (n) with minor pool based upon individual exactas, and no carryover:

(a) The major share of the net exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers for each of the exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based on the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of exacta (n) contests in which the recipient correctly selected the winning combination.

(b) If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, the major share shall be combined with the minor share and the entire net exacta (n) pool shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net exacta (n) pool. If there are no winning wagers, the pool shall be refunded.

(9) Method 9, exacta (n) with minor pool based upon individual exactas, and carryover:

(a) The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based on the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of exacta (n) contests in which the recipient correctly selected the winning combination.

(b) If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n)

contests, the minor share shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net exacta (n) pool, and the major share shall be added to the carryover; except that if there are no winning wagers in either the major or the minor pool, that performance's pool shall be refunded and the carryover shall be carried over.

(10) Method 10, exacta (n) with minor pool based upon individual exactas, and carryover; 100% carryover if no winning wagers:

(a) The major share of the net exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based upon the official order of finish. The minor share of the net exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of exacta (n) contests in which the recipient correctly selected the winning combination.

(b) If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, the minor share shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net exacta (n) pool, and the major share shall be added to the carryover. If there are no winning wagers, the minor share shall also be added to the carryover.

(C) Dead heats. In the event of a dead heat in any of the exacta (n) contests, the net exacta(n) shall be distributed to winning wagers in the following precedence, based upon the official order of finish, for each exacta contest within the exacta(n) wager:

(1) If there is a dead heat for first in any of the exacta (n) contests involving contestants representing the same betting interest, the exacta (n) pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

(2) If there is a dead heat for first in any of the exacta (n) contests involving contestants representing two or more betting interests, the exacta (n) pool shall be distributed as a single price pool with a winning wager including each betting interest involved in the dead heat.

(3) If there is a dead heat for second in any of the exacta (n) contests involving contestants representing the same betting interest, the exacta (n) pool shall be distributed as if no dead heat occurred.

(4) If there is a dead heat for second in any of the exacta (n) contests involving contestants representing two or more betting interests, the exacta (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first together with any betting interest involved in the dead heat for second.

(D) Scratches:

(1) Should a betting interest in any contest of the exacta (n) be scratched or excused from the contest prior to the first exacta (n) contest being declared official, all money wagered on combinations including the scratched betting

interest shall be deducted from the exacta (n) pool and refunded.

(2) Should a betting interest in any contest of the exacta (n) be scratched or excused from the contest after the first exacta (n) contest has been declared official, all money wagered on combinations including this betting interest shall remain in the exacta (n) pool and the ticket holder may still collect the monetary value of any distribution evidenced by the ticket containing the scratched betting interest.

(3) If, due to a late scratch, the number of betting interests in a contest of the exacta (n) is reduced to fewer than two, for purposes of the exacta (n) such contest shall be declared "no contest" and the exacta (n) pool shall be subject to the rules set forth in paragraph E of this rule.

(E) Cancelled contests:

(1) If any of the exacta (n) contests are cancelled or declared "no contest" prior to the first exacta (n) contest being declared official, the entire exacta (n) pool shall be refunded on exacta (n) wagers for those contests.

(2) If all remaining exacta (n) contests are cancelled or declared "no contest" after the first exacta (n) contest is declared official, the net exacta (n) pool shall be distributed as a single price pool to wagers selecting the winning combination in the first exacta (n) contest, but not the exacta (n) carryover. However, if there are no wagers selecting the winning combination in the first exacta (n) contest, the entire exacta (n) pool shall be refunded on Exacta (n) wagers for those contests.

(3) If any of the remaining exacta (n) contests are cancelled or declared "no contest" after the first exacta (n) is declared official, the net exacta (n) pool shall be distributed in accordance with rules governing distribution of the minor share where there is no winner of the major share.

(F) Mandatory distribution:

(1) A written request for permission to distribute the exacta (n) carryover on a specific performance may be submitted to the Commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The association must notify the commission at least ten days prior to implementation. If the exacta (n) pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next scheduled mandatory distribution performance.

(2) If the exacta (n) carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the net exacta (n) pool and the carryover pool:

(a) As a single price pool to those who selected the first and second place finishers, in exact order, in each of the exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in all exacta (n) contests, then;

(b) As a single price pool to those who selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish.

(c) If there are no wagers which correctly selected the first and second place finishers, in exact order, in at least one of the exacta (n) contests, based upon the official order of finish, then all exacta (n) tickets shall become winners and receive 100% of that performance's net exacta (n) pool and the Exacta (n) carryover pool as a single price pool.

(G) If, for any reason, the exacta (n) carryover must be held over to the corresponding exacta (n) pool of a

subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The exacta (n) carryover plus accrued interest shall then be added to the net exacta (n) pool of the following meet on a date and performance so designated by the commission.  
*Effective: 1-1-09*

### 3769-13-37. Pick (n) position (x) pools

(A) The pick (n) position (x) pool requires selection of the first (x) finishers, in their exact positions, in each of a designated number of (n) contests. For example, in a four position pool (x equals four), the bettor chooses four finishers in each contest. If the bettor has chosen one, two, three and four, and the actual finishers are four, two, three, and one, the bettor has correctly chosen two positions, (the second and third place finishers).

(B) The association must obtain written approval from the commission concerning the scheduling of pick (n) position (x) contests, the designation of one of the methods prescribed in method 3 and method 6 of this rule, the percentages of the net pool apportioned between the major share of the position (x) pool and the minor share(s) of the position (x) pool, and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) position (x) format require prior approval from the commission.

(C) Unless otherwise stated, the major share of the net pick (n) position (x) pool, (hereafter known as "position (x) pool") shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in a minimum specified number of positions in the (n) contests (considered as a whole) that comprise the position (x) pool, based upon the official order of finish. The minimum specified number of positions may be all (x) positions in all (n) contests (for instance, four positions in each of six contests, for a total of 24 positions) or a lesser specified number (for instance, 22 or more accurate positions within the six contests taken as a whole.)

(D) The pick (n) position (x) pool shall be apportioned under one of the following methods:

(1) Method 1, position (x) with no minor pool and no carryover:

(a) The net position (x) pool shall be distributed in accordance with the method for distributing the major share as described in paragraph B of this rule.

(b) If there are no wagers qualifying for the major share, the net position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number positions in position (x) contests.

(c) If there are no winning wagers, the entire pool shall be refunded on position (x) wagers for those contests.

(2) Method 2, position (x) with no minor pool and carryover instead of a refund:

(a) The net position (x) pool shall be distributed in accordance with the method for distributing the major share as described in paragraph B of this rule.

(b) If there are no wagers qualifying for the major share, the net position (x) pool and the carryover shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in position (x) contests.

(c) If there are no winning wagers, the net position (x) pool shall be added to the carryover.

(3) Method 3, position (x) with no minor pool and carryover:

(a) The net position (x) pool shall be distributed in accordance with the method for distributing the major share as described in paragraph B of this rule.

(b) If there are no wagers qualifying for the major share, the net position (x) pool shall be added to the carryover.

(4) Method 4, position (x) with minor pool and no carryover:

(a) The major share of the net position (x) pool shall be distributed in accordance with the method for distributing the major share as described in paragraph B of this rule.

(b) The minor share of the net position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

(c) If there are no wagers qualifying for the major share, the major share of the net position (x) pool shall be combined with the minor share for distribution as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in position (x) contests.

(d) If there are no wagers correctly selecting any finishers, in exact position, in position (x) contests, other than winners of the major share of the net position (x) pool, the minor share of the net position (x) pool shall be combined with the major share for distribution as a single price pool to those who qualified for the major share.

(e) If there are no winning wagers, the pool shall be refunded on position (x) wagers for those contests.

(5) Method 5, position (x) with minor pool and carryover:

(a) The major share of the net position (x) pool shall be distributed in accordance with the method for distributing the major share as described in paragraph B of this rule.

(b) The minor share of the net position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

(c) If there are no wagers qualifying for the major share, the minor share of the net position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in position (x) contests, and the major share shall be added to the carryover.

(d) If there are no wagers correctly selecting any finishers, in exact position, other than winners of the major share of the net position (x) pool, the minor share of the net position (x) pool shall be combined with the major share for distribution as a single price pool to those who qualified for the major share, or if there are no such winning wagers, added to the carryover.

(6) Method 6, position (x) with minor pool(s) and carryover:

(a) The major share of the net position (x) pool shall be distributed in accordance with the method for distributing the major share as described in paragraph B of this rule.

(b) A principal minor share of the net position (x) pool may be designated, and distributed as a single price pool, to those who correctly selected finishers, in exact position, in the greatest number of position in position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

(c) Additional minor shares of the net position (x) pool may be designated, and distributed as single price pools, to those who correctly selected the designated number, or range, of finishers, in exact position, in position (x) contests (but less than the number of positions

qualifying for the major share), based upon the official order of finish.

(d) Those qualifying for the principal minor share may also qualify for one of the additional minor shares. When this occurs, the two unbroken prices shall be summed before surcharging or rounding the prices for breakage. For example:

(i) Suppose there are five dollars of wagers correctly selecting twelve positions, three dollars of wagers selecting thirteen positions, and two dollars of wagers selecting fourteen positions, and fourteen is the greatest number of positions correctly selected.

(ii) Suppose that the principal minor share of the net pool is twenty-thousand dollars and sixteen cents (\$20,000.16). Further, one of the other minor shares is designated for a range of twelve to fifteen positions, and this share of the net pool is ten-thousand dollars and eighty cents (\$10,000.80). (These amounts are chosen only to illustrate the following steps.)

(iii) Then the principal minor share is divided among those selecting fourteen positions, and the other minor share is divided among all the wagers selecting twelve, thirteen, and fourteen positions, so the fourteen-position winners receives the sum of two winning prices.

(iv) The principal minor share twenty-thousand dollars and sixteen cents (\$20,000.16) divided among the two dollars of fourteen position winners yields an unbroken price of ten-thousand dollars and eight cents (\$10,000.08) per dollar, and the other minor share ten-thousand dollars and eighty cents (\$10,000.80) divided among the ten dollars of twelve, thirteen and fourteen position winners yields an unbroken price of one-thousand dollars and eight cents (\$1,000.08) per dollar.

(v) The sum ten-thousand dollars and eight cents (\$10,000.08) plus one-thousand dollars and eight cents (\$1,000.08) equals eleven-thousand dollars and sixteen cents (\$11,000.16) is the combined unbroken price for choosing fourteen finishers.

(vi) If the rounding for breakage is to the next lower ten cents (.10), the final broken prices are eleven-thousand dollars (\$11,000.00) for fourteen finishers, and one-thousand (\$1,000.00) for twelve or thirteen finishers.

(e) The commission shall approve the number of minor shares, and the designated number, or range, of finishers, in exact position, in position (x) contests qualifying as the winning selection in any such minor share.

(f) If there are no wagers qualifying for the major share, the major share shall be added to the carryover. If there are no wagers qualifying for a designated minor share, the minor share of the net position (x) pool shall be combined with the major share for distribution as a single price pool to those who qualified for the major share, or if there are no such winning wagers, added to the carryover.

(7) Method Seven, position (x) with minor pool(s) based upon any one contest, and no carryover:

(a) The major share of the net position (x) pool shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the position (x) contests, based upon the official order of finish.

(b) The minor shares of the net position (x) pool shall be distributed as single price pools to those (including recipients of the major share of the net position (n) pool) who selected all (x) finishers, in exact position, in at least one of the position (x) contests, based upon the official order of finish, as follows:

(c) There may be separate minor pools for those who selected all (x) finishers, in exact positions of finish, in the most position (x) contests, those who selected all (x)

finishers, in exact positions of finish, in the second most position (x) contests, and so forth down to those who selected all (x) finishers, in exact positions of finish, in one position (x) contest. Not all such minor shares need to be designated for the wager.

(d) If there are no wagers qualifying for the major share, the major share of the net position (x) pool shall be combined with the highest level minor share for distribution as a single price pool. If there are no wagers qualifying for a designated minor share of the net position (x) pool, that minor share shall be combined with the next lower minor share for distribution as a single price pool.

(e) If there are no winning wagers, the pool is refunded.

(8) Method eight, position (x) with minor pool(s) based upon any one contest, and carryover:

(a) The major share of the net position (x) pool and the carryover, if any, shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the position (x) contests, based upon the official order of finish.

(b) The minor shares of the net position (x) pool shall be distributed as single price pools to those (including recipients of the major share of the net position (x) pool) who selected all (x) finishers, in exact position, in at least one of the position (x) contests, based upon the official order of finish, as follows:

(c) There may be separate minor pools for those who selected all (x) finishers, in exact positions of finish, in the most position (x) contests, those who selected all (n) finishers, in exact positions of finish, in the second most position (x) contests, and so forth down to those who selected all (x) finishers, in exact positions of finish, in one position (x) contest. Not all such minor shares need to be designated for the wager.

(d) If there are no wagers qualifying for the major share, the major share shall be added to the carryover.

(e) If there are no wagers selecting all finishers, in exact position, in a number of the position (x) contests that qualify for a designated minor share, that minor share of the net position (n) pool shall also be added to the carryover.

(9) Method nine, position (x) with minor pool(s) based upon any one contest, and carryover:

(a) The major share of the net position (x) pool and the carryover, if any, shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the position (x) contests, based upon the official order of finish.

(b) The minor shares of the net position (x) pool shall be distributed as single price pools to those (including recipients of the major share of the net position (x) pool) who selected all (x) finishers, in exact position, in at least one of the position (x) contests, based upon the official order of finish:

(c) There may be separate minor pools for those who selected all (x) finishers, in exact positions of finish, in the most position (x) contests, those who selected all (x) finishers, in exact positions of finish, in the second most position (x) contests, and so forth down to those who selected all (x) finishers, in exact positions of finish, in one position (x) contest. Not all such minor shares need to be designated for the wager.

(d) If there are no wagers qualifying for the major share, the major share shall be added to the carryover.

(e) If there are no wagers selecting all finishers, in exact position, in a number of the position (x) contests that qualify for a designated minor share, that minor share of the position (x) pool shall be added to the next lower minor

share of the position (x) pool. If there is no lower designated minor share of the position (x) pool, the minor share shall also be added to the carryover.

(10) Method ten, position (x) with minor pool based upon any one contest, and carryover; one hundred (100) percent carryover if no winning wagers:

(a) The major share of the net position (x) pool and the carryover, if any, shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the position (x) contests, based upon the official order of finish.

(b) The minor share of the net position (x) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the position (x) contests considered separately, in which all (x) finishers, in exact position, were correctly selected, based upon the official order of finish. The minor share of the net position (x) pool shall be distributed as a single price pool to those (including recipients of the major share of the net position (x) pool) who selected all (x) finishers, in exact position, in one or more of the position (x) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of position (x) contests in which the recipient correctly selected the winning combination.

(c) If there are no wagers qualifying for the major share, the major share shall be added to the carryover. If there are no winning wagers, the minor share shall also be added to the carryover.

(E) Apportionment of net position (x) pool between major and minor pools: The commission shall approve the method of apportioning the net position (x) pool between winners of the major share of the position (x) pool and winners of the minor share(s) of the position (x) pool. Example; (utilizing method eight): A four position pool (x equals four) consisting of five contests (n equals five.) The major share goes to those who correctly choose all twenty positions. Assume the commission has approved three minor shares: The highest minor share goes to those who have picked all positions, in exact order, in four of the contests. The next minor share goes to those who have picked all positions, in exact order, in three of the contests. The final minor share goes to those who have picked all positions, in exact order, in one or two of the contests. One apportionment of payouts could be forty percent of the net position (x) pool for the major share, and twenty percent of the net position (x) pool for each of the three minor shares. Another apportionment of payouts could be fifty percent of the net position (x) pool for the major share, twenty-five percent for the highest minor share, fifteen percent to the next minor share, and ten percent to the final minor share.

(F) Dead heats. In the event of a dead heat in any of the position (x) contests, based upon the official order of finish:

(1) For purposes of determining whether a wager correctly selected the finishers, in exact position, contestants in a dead heat are deemed to jointly occupy both or all positions in the dead heat. For example, if five and six finish in a dead heat for first, then a selection of five for either first or second is correct, and a selection of six for either first or second is also correct.

(2) Each share of the net position (x) pool shall be distributed as a single price pool regardless of dead heats.

(G) Scratches.

(1) If, due to a late scratch, the number of betting interests in a contest of the position (x) pool is reduced to fewer than (x), for purposes of the position (x) pool only, such contests shall be declared "no contest" and the position (x) pool shall be subject to the rules set forth in the "cancelled contests" section of this rule.

(2) Should a betting interest in any contest of the position (x) pool be scratched or excused from the contest, no more wagers shall be accepted selecting that scratched contestant.

(3) Existing wagers that select a scratched betting interest shall be handled under one of the following methods. The commission shall make its determination of which of these alternatives shall apply at the time of approving the wagering pool, which alternative shall remain in effect until and unless changed by the commission.

(a) Method one, substitute a higher contestant number:

(i) The next higher live contestant number that is not already part of the wager shall be substituted for the scratched contestant number. If no higher contestant number is eligible, the search shall then proceed upward from contestant number one.

(ii) If a wager selects more than one scratched contestant for a contest, the substitutions shall begin with the lowest scratched contestant number in the wager and proceed in order to the highest.

(iii) Substitution shall be performed on the basis of single wagers, regardless of whether a wager was placed as part of any type of multiple wager format such as "box" or "wheel"

(iv) The totalizator shall produce reports showing each of the wagering combinations with substituted contestants which became winners as a result of the substitution, in addition to the normal winning combination.

(b) Method two, substitute favorite contestant number:

(i) The actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched contestant for all purposes, including a pool calculations.

(ii) If the win pool total for two or more favorites is identical, the substitute selection shall be the contestant with the lowest contestant number not already selected in the wager as part of the contest.

(iii) If such favorite has already been selected in the wager as part of the contest, the next favorite(s) shall be used, as evidenced by the total amounts wagered in the win pool, ordered from the highest amount to the lowest.

(iv) If a wager selects more than one scratched contestant for a contest, the substitutions shall begin with the lowest scratched contestant number in the wager and proceed in order to the highest.

(v) Substitution shall be performed on the basis of single wagers, regardless of whether a wager was placed as part of any type of multiple wager format such as "box" or "wheel".

(vi) The totalizator shall produce reports showing each of the wagering combinations with substituted contestants which became winners as a result of the substitution, in addition to the normal winning combination.

(c) Method three, scratched contestant wins.

(i) The scratched contestant is deemed to be a correct selection of a winning finisher, for purposes of the position (x) pool only.

(ii) The totalizator shall produce reports showing each of the wagering combinations which became winners as a result of the scratch contestants, in addition to the normal winning combination.

(d) Method four, scratched contestant loses.

(i) The scratched contestant is deemed to be a loser, for purposes of the position (x) pool only.

(ii) Other correctly selected finishers in a wager shall continue to count toward winning, as usual.

(H) Cancelled contests.

(1) If any of the position x contests are cancelled or declared "no contest" prior to the first position (x) contest being declared official, the entire position x pool shall be refunded on position (x) wagers for those contests.

(2) If all remaining position (x) contests are cancelled or declared "no contest" after the first position (x) contest is declared official, the entire net position (x) pool, but not the position (x) carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the first position (x) contest. However, if there are no wagers selecting the winning combination in the first position (x) contest, the entire position (x) pool shall be refunded on position (x) wagers for those contests.

(3) If any of the remaining position (x) contests are cancelled or declared "no contest" after the first position (x) is declared official, the net position (x) pool shall be distributed in accordance with rules governing distribution of the minor shares where there is no winner of the major share. If there is more than one minor share, the entire net position (x) pool, but not the position (x) carryover, shall be divided amongst the minor shares, in accordance with the apportionment section of this rule, in proportion to the designated percentages, or by some other method approved by the commission.

(4) If any of the remaining position (x) contests are cancelled or declared "no contest" after the first position (x) is declared official, and the net position (x) pool has been designated for distribution in accordance with the mandatory distribution section of this rule, the rules governing mandatory distribution shall apply.

(I) Carryover cap. The position (x) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the position (x) carryover equals or exceeds the designated cap, the position (x) carryover will be frozen until it is won or distributed under other provisions of this position (x) rule. After the position (x) carryover is frozen, the part of the net pool that ordinarily would be added to the position (x) carryover shall be distributed to those whose selection finished in the highest level of the minor shares of the position (x) for that performance.

(J) Mandatory distribution.

(1) A written request for permission to distribute the position (x) carryover on a specific performance may be submitted to the commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The association must notify the commission at least ten days prior to implementation. If the position (x) pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performance.

(2) If the position (x) carryover is designated for distribution on a specified date and performance, and if there are no wagers qualifying for the major share, then the following precedence shall be followed in determining winning wagers for the net position x pool and the carryover pool:

(a) If the method chosen in paragraph C of this rule, is method seven through ten, then:

(b) The major share and the position (x) carryover shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in the most individual position n contests, based upon the official order of finish. Designated minor shares may still be awarded;

(c) If the method chosen in paragraph C of this rule is one through six, then:

(d) The major share and the position (x) carryover shall be distributed as a single price pool to those who correctly selected the most finishers, in their exact positions, in the position n contests, based upon the official order of finish. Designated minor shares may still be awarded.

(e) If there are no wagers which qualified for distribution of the major share, then all position (x) tickets shall become winners and share one hundred percent of that performance's net position (x) pool and the position (x) carryover pool as a single price pool.

(3) The position (x) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) Upon written approval from the commission as provided in paragraph I of this rule.

(b) Upon written approval from the commission when there is a change in the carryover cap or when the position (x) wager is discontinued.

(c) On the closing performance of the meet.

(4) If, for any reason, the position (x) carryover must be held over to the corresponding position (x) pool of a subsequent meet, the carryover shall be deposited in an interest bearing account approved by the commission. The position (x) carryover plus accrued interest shall then be added to the net position (x) pool of the following meet on a date and performance so designated by the commission.

(K) Coupled entries and mutuel fields.

(1) Coupled entries and mutuel fields may be permitted in position (x) contests with the written approval of the commission.

(2) Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of position (x) pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then the scratches section of paragraph F of this rule shall apply.

(3) For the purpose of position (x) price calculations only, coupled entries and mutuel fields shall be calculated as a single finishing contestant, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat. For example, if the actual order of finish in a contest is 1/2/1a/3/4, then the finishers used for that contest of the position x would be 1/2/3/4.

(L) With the written approval of the commission, the association may contribute to the position (x) carryover, or to the major or minor shares of the position (x) pool, a sum of money up to the amount of any designated cap. *Effective: 1-1-09*

### **3769-13-38 Team wager pool**

(A) The team wager pool requires selection of a designated "team" in each of a designated number of contests. Winning bets shall be determined based upon the official order of finish in each contest and the standing of each team with respect to the official order of finish. For purposes of the team wager, finishers from the same team shall be bracketed together to determine a single betting interest, as set forth in Paragraph C.

(B) Prior to the start of the contests that comprise the team wager, all participants in each of the contests shall be divided by the association between or among each of the team wager teams, and the roster of each team made

public, as well as the number of points to be awarded to the team whose member is the first finisher in a designated contest, the second finisher, and so forth until no more points are awarded in that contest.

(C) At the conclusion of all contests that comprise the team wager, the number of points for each team shall be compiled, and the team with the most points shall be declared the "winning team."

(D) The team wager pool shall be apportioned under either of the following methods:

(1) Winning margins team wager:

(a) In the "winning margins team wager", the total number of points awarded in the team wager shall be divided by the association into a series of brackets comprised of a series of point ranges ("winning margin") by which one team (Team A) might defeat the other team (Team B); a series of point ranges by which team B might defeat team A; and a tie between the teams. Each bracket shall constitute a separate betting interest in the winning margins team wager.

(b) The net winning margins team wager pool shall be distributed as a single price pool to those who selected the correct bracket. If there are no wagers selecting the correct bracket, the entire pool shall be refunded.

(c) Example: Points are assigned to each of the first four finishers in each contest [four points for the first finisher down to one point for the fourth finisher, for a total of 10 points awarded in each contest, based upon the official order of finish, with a total of six contests in the team wager, resulting in a total of sixty points in all. The brackets could be designated as: Team A's winning margin is 1-10 points; 11-20 points; 21-30 points; 31-40 points; 41-50 points; 51-60 points. Team B's winning margin is one to ten points; 11-20 points; 21-30 points; 31-40 points; 41-50 points; 51-60 points. The two teams tie, and the margin is 0 Points. In this example, there are thirteen separate betting interests. If, in this example, finishers representing Team A come in first and third in one contest, and finishers representing Team B come in second and fourth in that contest, Team A would have  $4+2=6$  points and Team B would have  $3+1=4$  points. The current winning margin (after this first contest) would be Team A by two points.)

(2) Team double wager:

(a) In the "team double wager", the commission shall approve two different methods of determining the winning tickets qualifying for a share of the net pool.

(b) The commission shall also approve the manner of apportioning the net team double wager pool, and the conditions under which the pool shall be refunded or otherwise apportioned if there are no winning wagers.

(c) Example: A "daily-double"-style pool consisting of having to correctly select the bracket of the winning margin, as above, as well as a bracket based upon and including the total points achieved by the winning team.

(E) Brackets:

(1) The brackets may be comprised of the margins by which the winning team defeats the team that finishes second; the total number of points achieved by the winning team; or other method of determining the brackets, as approved by the commission.

(2) Such factors as the number of teams in the team wager; the method by which teams are designated; the number of points to be awarded in each contest; the number of contests comprising the team wager; and the method by which the "brackets" constituting each betting interest in the team wager are designated, shall all be subject to approval of the commission.

(F) Coupled entries; fields. With approval of the commission, coupled entries may be permitted in contests comprising the team wager, but may only participate as part of the same team. With approval of the commission, fields may be permitted in contests comprising the team wager, but may only participate as part of the same team.

(G) Dead heat. If there is a dead heat including any finisher(s) for which points are awarded in the team wager, the total amount of points in the dead heat positions shall be combined and divided equally amongst the betting interests that have finished in the dead heat.

(H) Scratches:

(1) Should an entry in any contest of the team wager be scratched or excused from the contest, all money wagered on combinations including this entry shall remain in the team wager pool and the ticket holder may still collect the monetary value of any distribution evidenced by the ticket containing the scratched betting interest.

(2) If, due to a scratch or excused entry, the number of entries assigned to a team in a contest of the team wager is reduced to fewer than the number of positions in the final order of finish for which the team is eligible to receive points, for purposes of the team wager pool such contest shall be declared "no contest" and wagers involving any betting interests that are no longer capable of being achieved shall be refunded. *Effective: 1-1-09*

### 3769-13-39 Future wager pool

(A) The future wager requires selection of the first place finisher in a specified contest.

(B) The association shall apply in writing to the commission for approval to offer the future wager on the specified contest and shall not offer the wager until the commission approval has been granted. The written application shall include the date and time for the pool to be opened and closed, a description of the system for compiling the pool and calculating odds and payout prices, and the time interval for displaying the odds.

(C) The association, or in the case of interjurisdiction common pool wagering the host track, shall name the contestants included in each betting interest on which future wagers may be made and shall assign a program number to each betting interest.

(D) The amount wagered on the betting interest which finishes first in the specified race is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered in the future pool on that betting interest.

(E) The net future pool shall be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish:

(1) To those whose selection finished first; but if there are no such wagers, then;

(2) To those whose selection finished second; but if there are no such wagers, then;

(3) To those whose selection finished third; but if there are no such wagers, then;

(4) The entire pool shall be refunded on future pool wagers for that contest.

(F) If there is a dead heat for first involving:

(1) Contestants representing the same betting interest, the future pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the future pool shall be distributed as a profit split.

(G) No refund shall be issued for future wager pool wagers on betting interests that do not start or finish the race. If the association becomes aware or is notified that a betting interest is ineligible or unable to start the race and the pool is still open, the association shall immediately close betting on that betting interest.

(H) The entire future wager pool shall be refunded if:

(1) The situation described in paragraph (E)(4) of this rule occurs; or,

(2) The specified race is declared no contest by the stewards having jurisdiction over the specified race; or,

(3) The specified race does not occur; or,

(4) For whatever reason, the future wager pool can not be determined and the payout price can not be calculated.

*Effective: 1-1-09*

### **3769-13-40 Fortune pick (n) pool**

(A) The fortune pick (n) pool requires selection of the first place finisher in each of a designated number of contests. The permit holder must obtain written approval from the commission concerning the scheduling of fortune pick (n) contests, and the amount of any cap to be set on the carryover. Any changes to the approved fortune pick (n) format require prior approval from the commission.

(B) Fortune pick (n) with minor pool and carryover with unique wager: the entire net fortune pick (n) pool and carryover, if any, shall be distributed to the holder of a unique wager selecting the first place finisher in each of the selected fortune pick (n) contests, based upon the official order of finish. If there is no unique wager selecting the first place finisher in all fortune pick (n) contests, the minor share of the net fortune pick (n) pool shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of fortune pick (n) contests; and the major share shall be added to the carryover.

(C) Unique wager, as used in this rule, shall be defined as having occurred when the total amount wagered on a winning combination selecting the first place finisher in each of the selected fortune pick (n) contests, based upon the official order of finish, is equal to the minimum allowable wager.

(D) If there is a dead heat for first in any of the fortune pick (n) contests involving:

(1) Contestants representing the same betting interest, the fortune pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the fortune pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(E) Should a betting interest in any of the fortune pick (n) contests be scratched, excused or determined to be a non-starter, all tickets sold containing the scratched horse shall be refunded. The money refunded will be deducted from the gross pool.

(F) The fortune pick (n) pool shall be cancelled and all fortune pick (n) wagers for the individual performance shall be refunded if:

(1) At least three contests included as part of a fortune pick six are cancelled or declared "no contest".

(2) At least four contests included as part of a fortune pick seven, pick eight, or pick nine are cancelled or declared a "no contest".

(3) At least five contests included as part of a fortune pick ten are cancelled or declared a "no contest".

(G) If at least one contest included as part of a fortune pick (n) is canceled or declared "no contest," but not more

than the number specified in paragraph (F) of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of fortune pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the fortune pick (n) carryover but not the carryover from previous performances.

(H) The fortune pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the fortune pick (n) carryover equals or exceeds the designated cap, the fortune pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the fortune pick (n) carryover is frozen, one hundred per cent of the net pool, part of which ordinarily would be added to the fortune pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of fortune pick (n) contests for that performance.

(I) A written request for permission to distribute the fortune pick (n) carryover on a specific performance may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(J) Should the fortune pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first place finisher in each of the fortune pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of fortune pick (n) contests. The fortune pick (n) carryover shall be designated for distribution on a specified date and specified performance only under the following circumstances:

(1) Upon written approval from the commission as provided in paragraph (I) of this rule;

(2) Upon written approval from the commission when there is a change in the carryover cap, a change from one type of fortune pick (n) wagering to another, or when the fortune pick (n) is discontinued;

(3) On the closing performance of the meet or split meet.

(K) If, for any reason, the fortune pick (n) carryover must be held over to the corresponding fortune pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest bearing account approved by the commission. The fortune pick (n) carryover plus accrued interest shall then be added to the net fortune pick (n) pool of the following meet on a date and performance so designated by the commission.

(L) With the written approval of the commission, the permit holder may contribute to the fortune pick (n) carryover a sum of money up to the amount of any designated cap.

(M) It is strictly prohibited to provide information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

(N) The association may suspend previously approved fortune pick (n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended fortune pick (n) wagering is reinstated. An association may request approval of a fortune pick (n) wager or separate wagering pool for specific performances.

(O) Fortune pick (n), as used in this rule, shall mean the selection of winners in six or more races during the course of an official racing program. . *Effective: 1-1-09*

**3769-13-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action. Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke and license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 1-1-85; 5-1-85; 5-21-90*

**CHAPTER 3769-14.  
PERMIT HOLDERS' AND OFFICIALS'  
RULES AND REQUIREMENTS**

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**3769-14-01. Permit holders, stable list**

(A) No permit holder shall use any unlicensed person in any position in which a commission license is required; provided, however, that a representative of the commission may give temporary approval to the use of any person who has applied for a license.

(B) The commission shall issue licenses, also known as badges, to all licensees to be worn in an easily visible place and the color background shall dictate the areas to which the licensee may have access. The license (badge) of the licensed person having access to such area must include a color photograph of that person to whom such license (badge) is issued. The color photograph shall be an integral part of the license (badge) itself. The commercial permit holder shall be responsible for any unlicensed person in the stable area or for any unlicensed person being in an area to which he is not entitled to have access. Any unlicensed person given access to the stable area by the permit holder, is to be issued a temporary pass good for no more than one date, which pass shall be worn on that person in an easily visible place, and that person shall be accompanied at all times by a licensed person who shall be responsible for that unlicensed person.

(C) Any trainer who trains horses for owners other than himself must submit a list of the names and addresses of such owners to the judges, along with his own and the horses owned by each.

Any trainer who engages grooms or other employees must submit a list of their names and addresses to the judges. No trainer shall list any owner other than one for whom he has horses in his stable, nor for grooms or other employees other than those actively engaged and on his payroll. Any change of owners or grooms or other employees must be reported to the stewards or judges immediately.

(D) Any person and a permit holder found in violation of this rule may be fined and his or her license may be

subjected to revocation or suspension or to such other disciplinary action by the judges and/or the commission as in their judgment they may deem proper. Any violator shall be subject to the penalties set forth in rule 3769-14-99 of the Administrative Code. *Effective: 1-1-85*

### **3769-14-02. Must file agreements**

All agreements of any kind between a permit holder and horsemen shall be submitted to the commission ten days prior to the opening of a horse racing meeting. *Effective: 1-1-85*

### **3769-14-03. Written order required**

No permit holder shall pay any portion of purses or other earnings, due to any horseman, to anyone else except upon written order of said horseman. *Effective: 1-1-85*

### **3769-14-04. Post time last race**

At all race meetings for harness horses, post time for the last race shall be not later than eleven fifty-five p.m. *Effective: 1-1-85; 1-1-05*

### **3769-14-05. Conflict in interest**

No judge, racing secretary, employee in the racing secretary's office, a starter, assistant starter, state veterinarian, track veterinarian, assistants to the state veterinarian or track veterinarian or any other racing official of a permit holder whose appointment of position must be reported to and approved by the commission, as provided in rule 3769-12-10 of the Administrative Code, shall, while serving in an official capacity at such track, race or permit or cause to be raced any horse in which he or she or his or her spouse or child has an interest, either direct or indirect, at a race track at which such person is employed.

(B) The appointed and/or commission-approved positions of race track owners, announcer, director of publicity and/or public relations, horsemen's bookkeeper, outrider, and track physician are specifically exempted from paragraph (A) of this rule. *Effective: 1-1-85; 4-1-88; 2-6-99; 8-30-19*

### **3769-14-06. Minors**

Any minor sixteen years of age or under shall not be admitted to the grandstand, club house or similar areas of any race track at which wagering is permitted unless accompanied by an adult member of his/her family. The provision shall not apply to state, county or independent fairs. No person under the age of eighteen years shall be permitted to wager at any horse racing meeting. *Effective: 1-1-85; 10-4-92*

### **3769-14-07. Unlawful gambling**

No permit holder shall allow bets to be made on its grounds on any racing outside of its grounds except as permitted under section 3769.089 of the Revised Code, and no unlawful gambling device of any kind shall be permitted on said grounds. *Effective: 1-1-85*

### **3769-14-08. Bookmaking not permitted**

No permit holder shall allow the making of book or the operation of handbooks on its grounds. If such practices are

found to exist, the permit holder shall take immediate steps to eliminate same under the penalties provided in rule 3769-14-99 of the Administrative Code. Any persons licensed with the commission in any capacity found betting with bookmakers may be deprived of their licenses, ejected from the grounds and denied entrance to any other race meeting in Ohio. Any other persons found betting with such bookmakers may be ejected from the course and denied further entrance to any Ohio race meeting. *Effective: 1-1-85*

### **3769-14-09. Prevent touting**

No tipster or tout shall be permitted to operate on the premises of any permit holder. The permit holder shall, under penalties provided in rule 3769-14-99 of the Administrative Code, take steps to prevent any touting upon its premises and may be held accountable for any touting found to exist thereon. *Effective: 1-1-85*

### **3769-14-10. Condition of premises and race track**

Every permit holder shall at all times maintain its premises and race track in good condition, with special consideration for the comfort and safety of the public; of the horses stabled, exercising or entered to race; horsemen; and all those whose business requires their attendance thereat, and to this end shall have available adequate and proper implements to maintain a consistent uniform track, weather conditions permitting. *Effective: 1-1-85*

### **3769-14-11. Stable area security**

(A) The secured area of a race track premises shall include any area to which access is only granted to persons licensed by the Ohio state racing commission for access to said area or to which written permission must be obtained from the presiding judge or a representative of track security in order for an unlicensed person to enter for any reason. If the permission is granted by track security a copy of the written permission shall immediately be delivered to the presiding judge.

(1) Secured areas of race tracks shall include, but not be limited to, barn or stable areas, paddocks, judges stands, state testing barn, driver's quarters and behind the counter of any race secretary's office.

(2) This rule shall not apply to members or employees of the Ohio state racing commission, track security personnel or to track management personnel approved for access by the general manager of the race track.

(B) The stable area of the premises of every permit holder shall be enclosed with anti-personnel chain fencing and shall have a twenty-four-hour guard at any opening during a horse racing meeting. Around-the-clock patrol of such area shall be maintained by security officers who shall pay special attention to the presence of unauthorized personnel to the enforcement of fire prevention measures and to the inspection of tack rooms and living quarters for fire hazards. No horses shall be quartered in any shelter, structure or building except barns of permanent-type construction, nor shall any barn used for the stabling of horses in such area contain temporary open-slat stalls. If conversions or temporary stalls are used, they shall have solid partitions between them and the stalls shall be a minimum of one hundred square feet in area and aisles between stalls shall have a minimum width of eight feet.

(C) When security officers find any unauthorized personnel, or any other violations of the rules, they shall make an immediate report in writing and there shall be a

copy delivered to the chief of security, the presiding judge and to the Ohio state racing commission.

(D) The permit holder is responsible for providing the necessary security personnel to enforce this rule and their failure to do so shall subject them to the penalties provided in rule 3769-14-99 of the Administrative Code.

(E) Any licensed security officer who fails to carry out the duties called for in this rule shall be subject to the penalties provided in rule 3769-14-99 of the Administrative Code. *Effective: 1-1-85; 8-1-91; 12-4-09*

#### **3769-14-12. Maintain ambulance**

(A) Every commercial permit holder shall furnish and maintain at least one ambulance for human use, staffed with two or more paramedics as defined in 4765.01 of the Revised Code. Such ambulance shall be properly and fully equipped to include a defibrillator and such other equipment as directed from time to time by order of the commission, licensed to operate on public highways, and ready for immediate duty during racing hours and until the days program is completed and such ambulance shall also be on duty for qualifying races or other chartered races. Said ambulance shall be located at a point on the permit holder's premises where it can respond to all calls in the shortest possible time. During posted training hours, every commercial permit holder shall make arrangements which are suitable to the commission to have such an ambulance, staffed with qualified personnel, as outlined in the Ohio Revised Code, on a standby basis. The permit holder shall provide written documentation to the commission demonstrating that the response time for such ambulance, in the event of a call, shall be prompt and reasonable. If the ambulance is being used to transport an individual, the permit holder may not conduct a race or allow horses on the racetrack until an ambulance returns.

(B) Every commercial permit holder shall furnish and maintain at least one horse ambulance properly equipped and placed at a location on the permit holder's premises so as to be able to respond to a call in the shortest possible time. This ambulance shall be available for the duration of the meeting. *Effective: 1-1-85; 4-1-88; 10-14-88; 8-1-91; 1-1-01; 11-1-01; 8-1-19*

#### **3769-14-13. Floodlights**

Every permit holder shall install and maintain at its track floodlights to provide adequate illumination of the stable areas at night. *Effective: 1-1-85*

#### **3769-14-14. Refuse pits**

Every permit holder shall provide proper and well located boxes or pits for separately receiving stable manure and other refuse, situated well distant from living quarters. Such boxes and pits shall be emptied and their contents entirely removed from the premises of the permit holder daily except Sundays, and the areas sprayed or dusted for insects on a timely routine schedule. *Effective: 1-1-85; 9-24-15*

#### **3769-14-15. Sanitation**

Each permit holder shall, on every racing day, provide and maintain in a strictly sanitary condition, adequate toilets, washrooms and facilities for furnishing the reasonable needs of its patrons, horsemen and persons having business at the track as may be reasonably required

by the commission. Each permit holder shall also provide a sufficient number of drinking water fountains to provide for the reasonable needs of its patrons as determined by the commission. *Effective: 1-1-85*

#### **3769-14-16. Tip sheets**

Unless authorized by the permit holder and by the commission, no printed material dealing with odds, horses or the races shall be sold, peddled or given away within any part of the premises of the permit holder, its entrances, approaches or places within its control. The permit holder shall not grant permission to sell any tip sheet, pamphlet or other publication making false or unwarranted representations. Nothing herein contained shall be construed as applicable to any newspaper, periodical, weekly or monthly magazine of general circulation. *Effective: 1-1-85*

#### **3769-14-17. Living quarters**

Every permit holder shall provide adequate and sanitary living quarters, with proper sanitary arrangements, and ample and convenient toilet and heating facilities for stable employees, and shall provide in its stable area at least one tack room of minimum area of one hundred square feet for every six horses stabled with adequate facilities for housing personnel therein. *Effective: 1-1-85*

#### **3769-14-18. First aid room**

Every permit holder shall have and maintain on its premises a first aid room with first-aid equipment to include a defibrillator and such other equipment as directed by the commission. Every permit holder shall provide one or more paramedics as defined in 4765.01 of the Revised Code in the first aid room during racing hours. *Effective: 1-1-85; 11-1-01; 8-1-19*

#### **3769-14-19. Visual recording**

(A) Each permit holder conducting harness racing under the jurisdiction of the commission shall take and make at its expense a complete film recording or other visual recording of all races run under the permit. The arrangements for said film recordings, or other visual recordings, shall be in a form satisfactory to the Ohio state racing commission, and said recordings shall be developed as soon as possible after the end of any race in order to enable the officials to judge the race and rule on all claims of infractions of the rules and thereby better protect the interest of the public in racing.

(B) Said film recordings shall be made with at least three separate television cameras operated by qualified personnel and located as follows:

- (1) In a tower which provides a good head-on view of the entire home stretch;
- (2) In a tower which provides a good head-on view of the entire back stretch;
- (3) Near the finish line so that it provides a good panoramic view of the start and the entire race.

(4) All judges stands shall be equipped with three television monitors, one for each of the required views and three recording devices.

(C) In order to educate and protect the drivers at harness tracks, such permit holders shall show said visual recordings the day following to all interested drivers.

(D) When any judge's ruling regarding a driving violation is appealed to the commission, the permit holder shall file with the racing commission, at its request, the film or visual recording of the race.

(E) Each permit holder shall retain the film or visual recording of all races for a minimum period of two years plus the current year. *Effective: 1-1-85; 1-1-87; 4-1-88; 1-1-05; 12-4-09; 9-24-15*

**3769-14-20. Driver, trainer must be licensed**

No permit holder shall allow any person to drive or train horses on its premises during any race meeting unless said person has received a license to do so from the commission, or unless the judges have approved his/her application for a license. *Effective: 1-1-85; 1-1-05*

**3769-14-21. Provide gate, head numbers and uniform colored saddle pads**

(A) Every commercial permit holder, shall provide head numbers, numbered saddle pads and a starting gate of approved design, and shall provide a back-up gate as well. Agriculture societies and fairs need not provide a backup gate.

(B) All commercial permit holders shall provide uniformly colored saddle pads and the colors to be assigned to each number are as listed.

(1) Red	(5) Black	(9) Purple
(2) Blue	(6) Yellow	(10) Blue/red
(3) White	(7) Pink	(11) Light blue
(4) Green	(8) Gray	(12) Red/white

*Effective: 1-1-85; 1-1-94*

**3769-14-22. Provide breath analyzer**

(A) Every commercial permit holder shall provide an alcohol breath-testing device, operated by a person approved by the commission to use such device. Such device shall be approved by the commission. All drivers, judges, paddock judges, patrol judges, placing judges, identifier, assistant starters and starters, shall be required to submit to a breath test at each racing program in which they participate. In addition, the executive secretary, any member of the Ohio state racing commission, any commission investigator, the judges, or the track chief of security may order any person licensed by the Ohio state racing commission to submit to a breath test at any time they have reason to believe the licensed person may have consumed sufficient alcohol to cause them to fail said breath test.

(B) In the case of drivers, if the results of such test show a reading of more than .035 per cent of alcohol in the blood, such driver shall not be permitted to drive and shall be suspended for a minimum of three racing days under provisions of the rules of the Ohio state racing commission. In the case of judges, starters, and drivers of the starting gate, if the test results in a reading of more .035 per cent of alcohol in the blood, that individual shall be relieved of his duties for that program and a report shall be made to the commission for appropriate action. In the case of any other licensee, they shall be suspended, beginning that day, under

the provisions of the rules of the Ohio state racing commission.

(C) For a second violation of paragraph (B) of this rule a licensee shall be fined one hundred dollars and shall be suspended for a period of not more than sixty days. For a third violation a licensee shall be fined two hundred fifty dollars, suspended for sixty days, and his or her case referred to the commission for further action.

(D) Should any person licensed by the Ohio state racing commission refuse to submit to a breath test, such licensee shall be fined one hundred dollars and suspended for seven days for a first offense. For a second refusal, a licensee shall be fined two hundred fifty dollars and suspended for thirty days. For any additional refusals to submit to a breath test a licensee shall be fined two hundred fifty dollars, suspended for sixty days, and his or her case referred to the commission for any further action deemed necessary. *Effective: 1-1-85; 10-15-85; 3-19-87; 4-1-88; 8-1-91*

**3769-14-23. Provide paddocks and paddock rules**

Every commercial permit holder shall:

(A) Provide a paddock or receiving barn.

(B) The paddock or receiving barn must be completely enclosed with a man-tight fence and all openings through said fence shall be policed so as to exclude unauthorized personnel therefrom.

(C) Horses must be in the paddock at the time prescribed by the presiding judge, but in any event at least one hour prior to post time of the race in which the horse is to compete. Except for warm-up trips, no horse shall leave the paddock until called to the post.

(D) Persons entitled to admission to the paddock:

- (1) Owners of horses competing on the date of the race;
- (2) Trainers of horses competing on the date of the race;
- (3) Drivers of horses competing on the date of the race;
- (4) Grooms and caretakers of horses competing on the date of the race;
- (5) Officials whose duties required their presence in the paddock or receiving barn.

(E) No driver, trainer, groom, or caretaker once admitted to the paddock, shall leave the same other than to warm-up said horse until such race, or races for which he was admitted is contested.

(F) No person except an owner, who has another horse racing in a later race, or an official, shall return to the paddock until all races of that program shall have been completed.

(G) No more than four owners of a horse, or registered stable, other than the driver, shall be entitled to admission to the paddock on any one racing day.

(H) During racing hours each track shall provide the services of a blacksmith within the paddock.

(I) During racing hours each track shall provide suitable extra equipment as may be necessary for the conduct of racing without unnecessary delay. *Effective: 1-1-85; 9-24-15*

**3769-14-24. Code of conduct in paddock**

While in the paddock, owners, drivers, and trainers shall so conduct themselves as to avoid creating any appearance or suggestion that would reflect adversely on the integrity of racing. The presiding judge and paddock judge are authorized on any occasion to revoke or curtail the paddock privileges of an owner if, in the judgment of the presiding judge or paddock judge, circumstances warrant

such action in order to maintain proper decorum in the paddock. *Effective: 1-1-85*

### **3769-14-25. Officials, judges**

(A) Judges shall be responsible to the commission and may be penalized under the provisions of rule 3769-14-99 of the Administrative Code at any time for failure to perform their duties to the satisfaction of the commission.

(B) The judges, of which there shall always be three in number, or a majority of them shall determine all questions with reference to racing arising during the meeting and all questions with reference to licensing, entries, or other matters, arising before the meeting has begun to the extent to which they are authorized to act under the rules of racing, and in such questions their orders shall supersede the orders of other officials of the permit holder. *Effective: 1-1-85*

### **3769-14-26. Officials, presiding judge**

Where parimutuel wagering is permitted for ten or more days in any meeting, one of the three judges at harness race meetings shall be known as the state judge, and paid by the Ohio state racing commission. The state judge shall be the presiding judge of the meeting for which he/she is appointed by the commission. *Effective: 1-1-85; 9-5-86*

### **3769-14-27. Right to inspect**

The judges shall have the right to inspect all licenses, including owners, trainers, driver-trainers, authorized agents, and all papers pertinent thereto, and assumed names and papers pertinent thereto. The judges may demand production of any license, contract or papers to be satisfied as to their validity and as to compliance with the rules of racing.

(B) Failure to produce the required documents, when requested by the judges, shall be a violation of this rule and shall subject said person to the penalties provided in rule 3769-14-99 of the Administrative Code. *Effective: 1-1-85*

### **3769-14-28. Supervision by judges**

(A) All owners, trainers, driver-trainers, grooms and other persons attendant upon horses shall be under the general supervision of the judges, and they also shall have supervision over all other racing officials and over those parts of the premises of the permit holder used for the conduct of racing. The judges shall have free access to any parts of the premises used for conducting racing.

(B) The judges shall also have general supervision over all other persons licensed by the Ohio state racing commission while such persons are on the premises of a permit holder. Such licensed persons shall include but not be limited to concession, maintenance, mutuel and parking lot employees.

(C) The judges may take disciplinary action against any licensee who has conducted himself/herself in a manner detrimental to the sport of horse racing by the indiscriminate use of profanity, failure to properly perform their duties which directly affect the track patrons, the treatment of patrons or other persons on the track premises in a discourteous manner, or by other actions which are found to be generally unacceptable by patrons and/or the judges. *Effective: 1-1-85; 5-1-85*

### **3769-14-29. Officials' powers**

(A) For disorderly conduct or breach of the peace or for violation of the rules of racing, orders of the commission, or any regulations the judges may establish, the judges of racing meetings shall have the power to fine any licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend a license for a period of time permitted by section 3769.091 of the Revised Code and/or refer licensee to the commission for further action. In the case of an indefinite suspension, the commission shall act on the matter referred to it by the judges within sixty days.

(B) On appeal or on its own motion, the commission shall have the power to reverse, vacate or modify in any manner any order of the judges.

(C) Any regulations adopted by the judges shall be consistent with the rules of racing, shall be promptly reported in writing to the commission upon adoption, and shall remain in effect unless and until the commission shall otherwise order.

(D) The judges may suspend or exclude from the stands and premises, improper and objectionable characters and persons who have been ruled off by the racing authority of any other state or country so long as such ruling of such authority remains in force. *Effective: 1-1-85; 8-1-91; 4-1-99*

### **3769-14-30. May appoint deputy**

In emergency any judge may appoint his own deputy at any time. If only one judge is present in the stand, he may name additional persons to serve with him. If none of the judges are present, the clerk of the course shall name persons to serve in the absence of the judges and shall report the absence in writing to the commission. In no case will there be less than three judges in the stand in attendance during the running of the races. *Effective: 1-1-85*

### **3769-14-31. Provision to fill vacancy**

The judges shall fill vacancies occurring in other official positions unless the permit holder shall have filled them and notified the judges prior to the time set for the first race to leave the paddock for the starting post, and such appointments shall be subject only to the confirmation of the commission. Should any vacancy occur after the above-mentioned time, the judges shall fill the vacancy at once, the appointment standing only for one day unless the permit holder shall not have filled the vacancy and notified the judges one hour before the time set for the first race of the following day. *Effective: 1-1-85*

### **3769-14-32. Disqualification to act as official**

(A) Any official who has an interest in any of the horses engaged in a particular race is disqualified from acting in any official capacity in that race. In the event of such disqualification the commission shall be notified by the disqualified person and shall appoint a substitute.

(B) An official may be fined, suspended, or his license may be revoked or denied at any time by the commission for incompetence, failure to follow or enforce the rules, or any conduct detrimental to the sport including the use of alcoholic beverages in violation of rule 3769-14-22 of the Administrative Code or the use of any unlawful drugs, or being guilty of other improper conduct. *Effective: 1-1-85*

### **3769-14-33. Daily Reports**

The judges shall prepare and make a daily report to the commission which shall include all fines and suspensions with the names and detailed reasons; the names of all persons barred from the grounds by the judges; the record of horses claimed with claiming price and the names of new and old owners; and such other data as the judges may feel it necessary to include or as required by the commission. The daily reports shall be sent to the commission daily. *Effective: 1-1-85; 12-4-09*

### **3769-14-34. Minority opinion**

Should the judges disagree, a vote shall be taken and the decision of the majority shall stand, but the notation that there was a minority opinion shall be made in the report to the commission. If there shall be no majority decision, the question or problem shall be submitted to the commission. *Effective: 1-1-85*

### **3769-14-35. Entries and declarations**

All entries and declarations shall be under the supervision of the judges, and they may, without notice, refuse the entries of any person or the transfer of any entries. *Effective: 1-1-85*

### **3769-14-36. May disqualify horse**

The judges may require the owner and/or trainer of a horse to prove the horse is qualified in every way to participate in a race. They may also require proof the horse was not nominated by or is not the property, wholly or in part, of a disqualified person. If not satisfied with such proof the judges may disqualify the horse. *Effective: 1-1-85*

### **3769-14-37. Postponement; withdrawn**

(A) The judges may order a horse or horses withdrawn from any race after it or they have left the paddock and before the start has been effected. In such event, the permit holder shall make a refund of all wagers on the horse or horses withdrawn (except in the case of a horse which represents part of an entry or mutual field of two or more horses). If such horse be withdrawn there shall be no refund.

(B) In case of unfavorable weather, or other unavoidable cause, the permit holder with the consent of the judges shall postpone races in the following manner:

(1) Early closing races, stakes and futurities, shall be postponed to a definite hour the next day;

(2) Any late closing race, early closing and stake or futurity, except as provided in paragraphs (B)(4) and (B)(5) below, that cannot be raced during the scheduled meeting shall be declared off and the entrance money and forfeits shall be divided equally among the nominators who have horses declared in and eligible to start;

(3) Any late closing race or early closing race that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to summary. In overnight events only that portion of the purse as has been contested will be paid;

(4) Any stake or futurity that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary;

(5) Unless otherwise provided in the conditions, in order to transfer stakes and futurities to another meeting,

unanimous consent must be obtained from the track and from all those having eligibles in the event;

(6) Overnight events may be postponed and carried over not to exceed three racing days. *Effective: 1-1-85*

### **3769-14-38. Commission must approve all officials**

All officials designated in rule 3769-12-10 of the Administrative Code shall be appointed by the permit holder subject to the approval of the commission, which reserves the right to at any time require the change of any official or officials for what the commission deems good and sufficient reason. *Effective: 1-1-85*

### **3769-14-39. Must be disinterested**

No one interested in the result of a race at any commercial meeting, either because of ownership of any horse entered, or because of ownership of an entered horse's sire or dam, or because of wagers, or otherwise shall act as judge, starter or official therein. *Effective: 1-1-85*

### **3769-14-40. Eye tests**

The commission may require all patrol judges and harness racing judges to undergo periodic vision examinations conducted by licensed oculists, optometrists or other eye specialists. Such examinations are to include tests involving distance and color vision. When such examinations are required the original examination report will be forwarded to the commission. *Effective: 1-1-85*

### **3769-14-41. Duties of officials**

(A) It shall be the duty of the judges to:

(1) Notify in writing, owners and drivers of penalties imposed;

(2) Report in writing to the commission, violations of rules by a permit holder, its officers or race officials. Such reports shall contain detailed information regarding any such reported violations;

(3) Sign each sheet of the judges' book verifying the correctness of the information contained therein;

(4) Exclude from the race any horse that in their opinion is improperly equipped, dangerous, or unfit to race which shall include sick, weak, and extremely lame horses. No horse shall race with a tube in its throat. No horse may race unless he has unimpaired vision in one eye and no horse infected with equine infectious anemia, or a carrier thereof, shall race;

(5) Investigate any apparent or possible interference, or other violation of rule 3769-17-15 of the Administrative Code, whether or not a complaint has been made by the driver;

(6) Investigate any act of cruelty seen by them or reported to them by any person toward a race horse during a meeting at which they officiate. If the judges find that such an act has been committed, they shall suspend the offending person and submit a written report of their findings and action to the commission;

(7) Immediately thereafter or as soon as possible after an accident occurs, the judges shall conduct an investigation of such accidents to determine the cause thereof. The judges shall also complete an accident report and mail said report to the commission;

(8) Observe closely the performance of the drivers and the horses to ascertain if there are any violations of the rules of racing, particularly interference, helping, or

inconsistent racing and they shall exhaust all means possible to safeguard the contestants and the public;

(9) Declare a dash or heat of a race no contest in the event the track is thrown into darkness during the progress of a race by an electrical malfunction or any incident that has compromised the race and deprived the betting public of a fair contest. If a no contest is declared, the judges may distribute the purse equally among non-offending horses;

(10) Be in the judges' stand fifteen minutes before the first race and remain in the stand for ten minutes after the last race, and at all times when the horses are upon the track;

(11) Observe the preliminary warming up of horses and scoring, noting behavior of horses, lameness, equipment, conduct of the drivers, changes in odds at parimutuel meetings, and any unusual incidents pertaining to horses or drivers participating in races;

(12) Designate one of their associates to lock the parimutuel machines immediately upon the horses reaching the official starting point. The presiding judge, after consulting with the permit holder, shall designate the post time for each race and the horses will be called at such time as to preclude excessive delay after the completion of two scores;

(13) Be in voice communication with the patrol judges from the time the starter picks up the horses until the finish of the race. Any violation or near violation of the rules shall be reported by the patrol judge witnessing the incident and a written record made of same. At least one judge shall observe the drivers throughout the stretch specifically noting changing course, interference, improper use of whips, breaks, and failure to contest the race to the finish;

(14) Post the objection sign or inquiry sign on the odds board in the case of a complaint or possible rule violation, and immediately notify the announcer of the objection and the horse or horses involved. As soon as the judges have made a decision, the objection or inquiry sign shall be removed, the correct placing displayed, and the "official" sign flashed. In all instances the judges shall post the order of finish and the "official" sign as soon as they have made their decision. In addition, the judges shall cause the "inquiry" sign to be posted whenever there has been an accident during the course of the race;

(15) The presiding judge shall call a meeting of all horsemen on the grounds before the opening of a parimutuel meeting for the purpose of their electing a member and an alternate to represent them on matters relating to the racing of horses due to bad track or weather conditions;

(16) In case of questionable track conditions due to weather, the presiding judge shall call a meeting consisting of an agent of the track, the duly elected representative of the horsemen and the presiding judge;

(17) Upon unanimous decision of this committee of three that track conditions are safe for racing, the races will proceed, or if not, there will be time allowed to scrape the track, or if conditions warrant, to cancel the night's program.

(B) Hearing procedures.

(1) Any person charged with a violation of the Ohio rules of racing may waive their rights to a judges' hearing;

(2) When a hearing is requested, judges are to provide same before assessing a penalty upon any party. At least the presiding judge and one associate judge must be present at all judges' hearings. When a hearing is requested by a person or ordered by the judges it shall be the duty of the judges to notify the person involved, as soon as possible, of the date and time of said hearing. Any person requesting a hearing will be given at least until twelve noon

the day following the day they were notified of the hearing to prepare a defense if they so request.

(3) The judges' may impose the penalties prescribed by the law and the Ohio state racing commission rules. Penalty notices will carry the reason the penalty was imposed and the commission rule number or numbers that were violated. *Effective: 1-1-85; 4-1-88; 1-1-05; 9-24-15*

#### **3769-14-42. Placing**

At the time the horses reach the finish line, the judges shall determine the order of finish. In such determination, a horse whose nose shall have reached the finish line shall be deemed ahead of all horses whose noses shall not have reached the finish line. The judges shall announce their decision as to the order of finish, and their decisions shall be final unless objection to any horse placed in the first four positions be raised and sustained. However, the judges may correct any mistake in the order of finish announced. In the absence of any objections, or upon decisions having been reached with relation to any objections raised and any changes in the order of finish required by such decisions having been made, the judges shall cause the sign "official" to be displayed with the exception of those circumstances addressed in 3769-13-10 paragraph A of the Administrative Code no ruling of the judges thereafter made shall have any bearing with relation to the payment of winning parimutuel tickets. *Effective: 1-1-85; 1-1-05*

#### **3769-14-43. Photographic finish**

The permit holder shall provide a camera approved by the commission which shall be used to photograph each finish. In the event two or more horses reach the finish post so closely aligned that it is difficult for the judges to determine the order of finish for any of the first four positions, the negative or a positive print may be inspected and decision reached therefrom. A print or prints of the finish or their equivalents shall be posted for public inspection. However, in the event of any mechanical difficulty or insufficient light for a picture to be taken, the judges shall make a decision, and it shall be final. *Effective: 1-1-85; 4-1-99*

#### **3769-14-44. Equipment record**

(A) The permit holder shall provide forms to each trainer responsible for entering a horse to race at the meeting. These forms shall record the name, tattoo number freeze brand, or microchip. These forms shall include the color, age, sex, gait and markings of such horse along with all equipment customarily worn by such horse competing in a race at the track. Such equipment list shall include information as to the bit, boots, bandages, harness, hobbles and any other racing equipment. Such record shall be kept in a permanent file under the supervision of the paddock judge. The trainer shall report any changes in the equipment worn by the horse to the paddock judge at least one hour before the post time of the race in which the horse is to compete.

(B) Prior to entering the track in preparation for the post parade, every horse entered to race shall be checked by the identifier for all items listed on such forms and any discrepancies shall be reported immediately by the identifier to the paddock judge who shall forthwith report such discrepancies to the presiding judge.

(C) Should the judges determine that any discrepancies set out in paragraphs (A) and (B) of this rule are of a nature that would affect the horses performance in the race, or that an improperly listed horse is entered to start, that horse may be scratched from competition in the race.

(D) Any trainer who refuses to provide proper information required herein, who fails to report any changes in equipment worn by the horse, or who provides false information as to the horse or equipment worn by the horse, shall be subject to being fined, suspended or ruled off. *Effective: 1-1-85; 12-4-09; 9-24-15; 8-30-19*

### **3769-14-45. Track veterinarian**

A veterinarian licensed to practice in Ohio, hired and paid by the permit holder, shall be in the paddock for each commercial harness race. The track veterinarian shall supervise an examination of every horse scheduled to start in a race at the meeting. The track veterinarian shall maintain a list of such horses which, in his or her opinion, are unfit for racing and shall report to the judges daily on each horse entered for the day's races, stating whether it is or is not physically fit to race. The veterinarian list shall be posted in the racing secretary's office. The list shall be kept current with the date a horse was placed on the veterinarian list and the date said horse was released. *Effective: 1-1-85; 12-4-09*

### **3769-14-46. Patrol judges**

(A) With the prior approval of the commission, one or more patrol judges may be assigned to approved posts of vantage about the course and, when so assigned shall observe each race and, shall be in direct voice contact with the judges in the judges' stand. They shall immediately report to the judges any violations of the rules of racing observed by them during the race and immediately after the finish and no posting of the order of finish shall be official until all patrol judges have verbally reported to the judges' stand. With prior approval of the commission, the starter may act as one of the patrol judges.

(B) Each patrol judge shall write a report of their observations of every race documenting all violations of the rules of racing they observe during the running of a race. These reports shall be delivered to the presiding judge at the conclusion of each racing program and a copy of these reports shall be included with the daily report sent to the commission. When requested by the presiding judge, the patrol judges will make themselves available to testify at any hearing concerning violations they have observed.

(C) The requirements of paragraphs (A) and (B) of this rule may be waived by the commission upon application of a permit holder who demonstrates satisfactorily to the commission that adequate electronic and television equipment have been installed by the permit holder for purposes of officiating the running of the races. *Effective: 1-1-85; 8-1-91; 1-1-05*

### **3769-14-47. Timers**

(A) At all commercial race tracks, the time of every race shall be accurately taken by an electrical timing device approved by the commission. Under unusual circumstances, the official time can be determined by using the appropriate scientific equipment to determine an accurate time from the official video of the race. The recorded time will be entered in the record, in minutes, seconds, and fifths of seconds. The time of the race shall be publicly announced or posted.

(B) For county fair racing it is permissible for the time of the race to be taken by three individual timers with stopwatches.

(C) In the event an accurate official time cannot be determined for a race no unofficial time shall be announced or entered in the record. *Effective: 1-1-85; 4-3-86; 12-5-94; 12-4-09; 8-30-19*

### **3769-14-48. Duties of the racing secretary**

It shall be the duty of the racing secretary to:

(A) Receive and to keep safe the registration certificates of all horses competing in claiming races at the track and to return same to the owner of a horse or their representative upon their departure from the grounds.

(B) Be familiar with the ages, class, and competitive ability of all horses racing at the track.

(C) Where the Ohio racing commission rules require, classify and re-classify horses.

(D) Keep a current list horses in the classes for which they qualify and display it in the room where the declaration box is located for examination by horsemen and others.

(E) Write conditions and schedule the daily racing programs presented at the track.

(F) Provide for the listing of horses in such daily program; examine all entry blanks and declarations; verify all information set forth therein; select the horses to start and the also eligible horses from the declarations in accordance with the rules of the Ohio racing commission.

(G) Examine nominations and declarations in early closing and stake events; verify the eligibility of all declarations and nominations, and compile a list of eligible horses for publications.

(H) See that all declarations taken by telephone are signed by the person taking the declaration and make provisions for the safe keeping of all entries, or declarations received during the meeting, for a period of six months thereafter.

(I) To prescribe the standards for overnight events and to prepare and publish condition sheets in accordance with the rules of the Ohio racing commission.

(J) Check the electronic eligibility of each horse on the premises of the permit holder for a current coggins test report. *Effective: 1-1-85; 7-1-01*

### **3769-14-49. Clerk of course**

The clerk of course shall:

(A) At the request of judges assist in drawing positions;  
(B) Keep the judges' book provided by the "United States Trotting Association" and the record therein:

(1) All horses entered and their electronic eligibility numbers;

(2) Names of owners and drivers and drivers' license numbers.

(C) Record the charted lines at commercial meetings and fairs if available. At fairs, record the position of the horses at the finish. At all race meetings, record the money won by the horse at that track;

(D) Note drawn or ruled out horses;

(E) Record time in minutes, seconds and fifths of seconds;

(F) Check electronic eligibility before the race and after the race enter all information provided for therein, including the horse's position in the race if it was charted;

(G) Verify the correctness of the judges' book including race time, placing and money winnings, reasons for disqualifications, if any, and see that the book is properly signed;

(H) Forward judges' book, charts and marked programs from all meetings the day following each racing day. *Effective: 1-1-85; 5-7-01*

### **3769-14-50. Paddock judge**

(A) Under the direction and supervision of the presiding judge, the paddock judge will have complete charge

of all paddock activities as outlined in rules 3769-14-23 and 3769-14-44 of the Administrative Code.

(B) The paddock judge is responsible for:

(1) Getting the fields on the track for post parades in accordance with the schedule given to him by the presiding judge;

(2) Inspection of horses for changes in equipment, broken or faulty equipment, head numbers and saddle pads;

(3) Supervision of paddock gate men;

(4) Proper checking in and checking out of horses and drivers;

(5) Supervising the checking of the identification of all horses coming in to the paddock including the tattoo number;

(6) Direction of the activities of the paddock blacksmith;

(7) Immediately notifying the presiding judge of anything that could in any way change, delay or otherwise affect the racing program;

(8) Seeing that only properly authorized persons are permitted in the paddock. *Effective: 1-1-85*

### **3769-14-51. Charter, identifier**

(A) Licensed charter. The charting of races shall be done only by a qualified charter and the charter shall be responsible for providing a complete and accurate chart. A charter must be a person who has the knowledge, training and ability to accomplish this.

(B) Mandatory charting. At all commercial meetings and grand circuit meetings, the charting of races is mandatory and the track shall employ a charter to fulfill the requirements of this rule.

(C) Identifier. At all commercial meetings the track member shall employ an identifier whose duty it shall be to check the identification of all horses and the equipment worn by the horses coming into the paddock. The identifier shall be under the immediate supervision of the paddock judge and the general supervision of the presiding judge.

The identifier shall check the equipment of horses in the paddock against the written record for the horse as provided to the paddock judge by the trainer of the horse. The identifier shall promptly report to the paddock judge in writing any discrepancy or change of equipment on any horse and the paddock judge shall in turn report same forthwith to the presiding judge. *Effective: 1-1-85; 12-4-09; 9-24-15*

### **3769-14-52. Sulky equipment**

(A) Every sulky used in a race at a licensed harness racing meeting shall be subject to the approval of the judges, Ohio state racing commission, and the United States trotting association. A driver shall not drive a sulky not equipped with special equipment as so ordered. Mud fenders must be available and must be used whenever ordered by the presiding judge. Every sulky shall be equipped with the wheel discs of a type approved by the judges, Ohio state racing commission, and the United States trotting association. All shafts will be equipped with quick-hitch fixtures or attachable by conventional tiedowns. All quick-hitches shall have safety straps.

(B) The Ohio state racing commission shall have the authority to establish guidelines and recommendations for the design, performance and certification of racing sulkies. The Ohio state racing commission shall have the authority to authorize variances from these standards and may approve for use any sulky which does not qualify under section A, if in their opinion the sulky does not pose a safety hazard,

does not impair the horse or driver, and does not undermine the competitiveness of the horse and/or driver. *Effective: 1-1-85; 9-1-94; 1-1-05*

### **3769-14-53. Harness race track without a hub rail**

(A) In the event a horse or part of the horse's sulky leaves the course, and if, in the opinion of the judges, that action gave the horse an unfair advantage over other horses in the race, the horse may be disqualified or placed back one or more positions. In any such disqualification or placing, the horse causing the interference must be placed behind the horse or horses over which it gained an advantage and/or the horses with which it interfered.

(B) There shall be no disqualification of a horse temporarily forced off the race course providing the driver makes effort to re-enter the course as soon as possible in a safe manner.

(C) In the event a horse or part of the horse's sulky leaves the course for any reason, it shall be the driver's responsibility to take all reasonable steps to safely re-enter the race course as soon as possible.

(D) If, in the opinion of the judges, a driver's actions or lack of action causes or contributes to any violation of this rule, said driver may be fined and/or suspended and/or referred to the commission under the provisions of rule 3769-14-99 of the Administrative Code. *Effective: 1-1-91*

### **3769-14-54. Expanded homestretch racing**

(A) With prior approval of the commission, a track may expand the width of its homestretch by no less than ten feet nor more than fourteen feet inward in relation to the width of the rest of the race track.

(B) In the event the homestretch is expanded pursuant to paragraph (A) of this rule, the following shall apply:

(1) When entering or while going through the homestretch for the first time in a race, no horse shall use the expanded inside lane in an attempt to pass other horses or improve its position. Any horse which does so shall be disqualified and placed last in the order of finish.

(2) The lead horse in the homestretch shall maintain as straight a course as possible while allowing trailing horses full access to the expanded inside lane. If, in the opinion of the judges, the lead horse changes course in the homestretch in an attempt to prevent a trailing horse from passing, said horse may be placed accordingly.

(3) Horses using the expanded inside lane, during the homestretch drive for the finish of the race, must first have complete clearance of the pylons marking the inside boundary of the race course. Any horse or sulky running over one or more of the pylons or going inside the pylons, while attempting to use the expanded inside lane, may be disqualified and placed last in the order of finish.

(4) During the last one-eighth mile of a race a horse may only be driven into the expanded home stretch lane for the purpose of passing another horse and may not be driven into the expanded home stretch lane for the purpose of blocking a trailing horse. It shall be presumed that any horse driven into the expanded home stretch lane which blocks a trailing horse, without advancing on the horse it was allegedly attempting to pass, was being driven for the purpose of blocking a trailing horse. If in the opinion of a majority of the judges, a horse is driven into the expanded home-stretch lane for the purpose of blocking a trailing horse, the driver of the blocking horse may be fined and/or suspended and the horse may be placed accordingly. *Effective: 5-4-92; 10-4-92; 8-30-19*

**3769-14-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 1-1-85; 5-1-85*

15-21	Elimination heats, divisions
15-22	Overnight list
15-23	Must be starter
15-24	All moneys must be paid
15-25	Not a claiming race
15-26	Automatically out
15-27	Notice in writing
15-28	Scratch irrevocable
15-29	Qualifying races
15-30	Declaration to start and drawing horses
15-31	Also eligible list
15-32	Steward's list
15-33	Program director
15-34	Ohio standardbred stallion registration...
15-99	Penalties Commission may impose

**3769-15-01. Racing secretary**

The racing secretary shall prepare the books or sheets of conditions for the races to be contested during the meeting and he/she and his/her assistants shall take entries for all races. The racing secretary shall assign preference for each entry and prepare the races for the drawing of post positions. Post positions shall be drawn through a computerized method or by lot approved by the commission. The number drawn shall be the post position for the race. *Effective: 1-1-85; 1-1-06; 6-15-19*

**3769-15-02. Entry licensing requirements**

No horse may be permitted to race in this state unless the owner, trainer, and driver shall have been granted a current license by the commission or shall have made application for a license accompanied by the proper fee as prescribed in rule 3769-12-24 of the Administrative Code and which application shall not have been rejected. It shall be the duty of the racing secretary to enforce this rule. *Effective: 1-1-85; 10-4-92; 2-22-11*

**3769-15-03. Entry void**

If a person is suspended, ruled off or expelled, he shall not be qualified, as agent or otherwise, to declare for a race, to enter or to run any horse for himself or anyone else, and no horse which he owns wholly or in part, or which is under his care, management, training or supervision shall be qualified to run in any race. Such entry if received shall be void, and if an entry fee accompanies it, the fee shall be refunded. *Effective: 1-1-85*

**3769-15-04. Entry in name of all owners & proof of ownership**

(A) Every entry must be in the name of a person having an ownership interest in the horse and must be made in writing or by computerized method authorized by the commission by such owner, his/her trainer or by the authorized agent of either. The authorized agent must be licensed at the time the entry is received by the race office.

(B) The judges may call upon any person making entry to prove the extent of his interest in the horse or its winnings or to give proof that the horse entered is not the property, wholly or in part, of any person who is disqualified. If unsatisfied with the proof tendered, they may declare the horse out of the race.

(C) The judges may penalize any failure to comply with this rule and may disqualify any horse which races after being entered in violation of this rule. *Effective: 1-1-85; 3-22-11; 5-17-21*

**3769-15-05. Stable names**

(A) All current year registrations of stable names by the "United States Trotting Association" shall be recognized

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RACING ELIGIBILITY REQUIREMENTS**

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in Ohio upon payment of a fee of twenty-five dollars, except that anyone so registered and racing in Ohio will be required to disclose his real name.

(B) A person cannot register more than one stable name at the same time, nor can he use his real name so long as he had registered a stable name, except as provided in paragraph (D) of this rule and unless he is the sole owner of a horse that is not part of a registered stable.

(C) A stable name may be changed at any time upon registration of a new stable name and by paying the required fee.

(D) Any person may abandon a stable name in favor of his real name after he has given written notice to the commission. Both the abandoned stable name and the real name or the new stable name shall be carried for the next three ensuing starts of all horses racing for such person.

(E) A person cannot register as his stable name one which has already been registered by any other person or one which is the real name of any owner or race horses.

(F) A trainer who is a licensed owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his legal name.

(G) No stable name shall be used if in the judgment of the judges it is obscene, derogatory or is not in keeping with the high standards of racing.

(H) On all applications for stable names one of the owners must personally sign the application as the person designated as the agent responsible for the actions of the stable.

(I) When registering a stable name with the Ohio state racing commission the name and other required information about every person, who has any part of the ownership of any horse which races under the registered stable name, must be listed on the application for said stable name. In the event a new owner is added or an owner ceases to be a part of a stable it shall be the responsibility of the person, designated on the application as the responsible agent for the stable to notify the commission in writing of such change. *Effective: 1-1-85; 8-1-91*

### **3769-15-06. No change permitted**

(A) No alteration or condition shall be made in any entry after the time fixed for closing except that an error may be corrected with the consent of the judges.

(B) No change in trainer of a horse, entered and drawn to start, will be permitted. In the event of such change the horse will be scratched and the parties responsible therefor shall be subject to fine or suspension. A change in ownership may be permitted with the approval of the judges.

(C) No owner shall list as the trainer of a horse a person who is not in fact the trainer of such horse, and no trainer shall allow his name to be shown on the declaration form nor the official program as trainer of a horse which he does not in fact have under his care and supervision as trainer of said horse. The judges may require proof that a person listed as the trainer of a horse is in fact the actual trainer of that horse.

Some of the things judges may consider when attempting to determine the trainer of a specific horse are as follows:

(1) The individual is responsible for stable activities, including the authority to hire and replace stable personnel and drivers; payment of expenses the stable incurs; payroll matters; and carrying workers compensation coverage.

(2) The individual is in possession of a valid united states [sic] trotting association trainer's license.

(3) The individual has consistently requested the services of a veterinarian to treat horses in his/her stable.

(4) The individual conducts a business relationship with an owner regarding the racing schedules of his/her horses.

(5) The individual is known to have communicated with the racing secretary's office in a business like manner regarding the entering of horses.

(6) The individual is responsible for the rigging and shoeing of a horse.

(7) The individual has been known to accompany specific horses to the paddock.

(8) The individual has shown an ability to warm horses up prior to a race.

(9) The individual is known to have entered into a contractual agreement with an owner regarding the care and training of a specific horse(s).

(D) The individual who performs duties and has the main responsibilities as a trainer concerning a specific horse shall be considered the trainer and as such shall be listed in the program as the trainer of said horse. *Effective: 1-1-85; 7-2-92*

### **3769-15-07. No entry fee**

Unless the conditions of the race so provide, there shall be no entry fee to any race. If the conditions require an entry fee, it shall accompany the entry unless otherwise specified. *Effective: 1-1-85*

### **3769-15-08. Entries refused**

The entries of any person or the transfer of any entry may be refused without notice by the judges with good cause. *Effective: 1-1-85*

### **3769-15-09. Reporting time for shipping in**

All horses shipping in to race must be at the track where they are to race three hours before post time of the race in which they are to run and must be available for examination by the track veterinarian. In the event of an unavoidable delay, as determined by the judges, the judges may determine a reasonable grace period. *Effective: 1-1-85; 8-1-91; 1-1-95; 5-17-21*

### **3769-15-10. Registration with associations**

(A) No horse may be started in any race or qualifying race unless it is registered with the "United States Trotting Association" or "Standardbred Canada."

(B) No horse shall be allowed to start unless a lifetime electronic eligibility from the "United States Trotting Association" or a current electronic eligibility from "Standardbred Canada" has been acquired.

(C) No horse shall be allowed to enter a race or a qualifying race unless it has been lip tattooed, microchipped, freeze branded, or any other identification method approved by the appropriate breed registry and the commission for comparison with the horse's registration certificate needed to verify the horse's identity. *Effective: 1-1-85; 8-10-95; 5-7-01; 2-1-11; 8-12-19*

### **3769-15-11. Identification of horse**

(A) When a horse is entered, it must be clearly identified by statement of its name, age, color, and sex, the names of its sire and dam;

(B) Any alteration in the sex of a horse must be reported and noted by the trainer to the racing secretary;

(C) Fillies and mares that have been bred shall be reported to the racing secretary as having been bred prior to being entered in a race. The secretary shall post on the

bulletin board in the paddock the names of all fillies and mares that have been bred and to what stallion or stallions;

(D) A mare that has been bred shall not be eligible to be entered in a claiming race unless the stallion mating certificate is attached to the registration certificate or released in a computerized system approved by the commission showing the fee for the stallion service has been satisfied and that the successful claimant will not be responsible for the stallion fee. *Effective: 1-1-85; 5-17-21*

### **3769-15-12. Proof of identity**

No horse may start in any race unless it be fully identified. Burden of proving identity rests with the person or persons having charge of the horse at the meeting and the judges may suspend and refer to the commission such persons in case of fraud or attempted fraud. The judges also may suspend and refer to the commission any other person who aids in any way in the perpetration of a fraud or who participates in any attempt at fraud. Any person found guilty of violating this rule shall be subject to the penalties provided in rule 3769-15-99 of the Administrative Code. *Effective: 1-1-85*

### **3769-15-13. Receive entry fees**

The racing secretary shall receive all stakes, entrance money, and other moneys that properly can come to his office. At his/her discretion the racing secretary may receive moneys due other associations as fees or forfeits, forwarding them promptly to the association to which same is due. *Effective: 1-1-85*

### **3769-15-14. Mutuel entry**

No more than two horses of the same ownership and/or in charge of the same trainer may be entered for an overnight race, and both may start as a mutuel entry. The horses may also be entered so that each horse will appear in a separate division if the race subsequently be divided, but such notation must appear on the entry blank. *Effective: 1-1-85*

### **3769-15-15. Eligibility of entries**

(A) In harness racing a horse must be eligible to start at time of entry.

(B) Transfer provisions-change of gait. If conditions published for early closing events allow transfer for change of gait, such transfer shall be to the slowest class of the adopted gait for which the horse is eligible. Eligibility shall be determined at time of closing of entries. The race to which transfer may be made must be the one nearest the date of the event originally entered.

(C) Two-year olds, three-year olds, or four-year olds entered in classes for their age, may only transfer to classes for same age group at the adopted gait to the race nearest the date of the event originally entered. Entry fees may be adjusted. *Effective: 1-1-85*

### **3769-15-16. Horses ineligible to be entered**

An owner or trainer shall not enter or start a horse that has not been qualified or is on the judges list, is wearing a trachea-tube, or has a hole in its throat for a trachea-tube, has been nerved as described in rule 3769-18-04 of the Administrative Code, or has impaired eyesight in both eyes. *Effective: 1-1-85; 5-4-92; 1-1-06; 5-17-21*

### **3769-15-17. Engagement passed to new owner**

(A) When a horse is sold, its engagements pass to the new owner unless otherwise specified in the terms of the sale. When a horse is claimed out of a claiming or optional claiming race, its engagements pass to the claimant. In no case, however, shall the engagements pass with the horse to a person not in good standing.

(B) Except in cases of horses claimed out of claiming races, no sale of a horse by private agreement or public auction will be recognized if such sale is not evidenced by a bill of sale. *Effective: 1-1-85*

### **3769-15-18. Ban on dealing in horses**

No employee of any commercial track whose duties include the classification or entry of horses shall participate financially, directly or indirectly, in the purchase or sale of any horse which races at such meeting. Any person violating this rule shall be suspended by the judges and the matter referred to the commission. *Effective: 1-1-85; 9-5-86*

### **3769-15-19. Racing entries**

(A) The racing secretary shall receive declarations (entries) for all races.

(B) All entries must:

(1) Be made in writing through a computerized method approved by the commission or by telephone as provided in rule 3769-15-30 of the Administrative Code;

(2) Be signed by the owner, trainer or an authorized agent, except as provided in paragraph (D) of rule 3769-15-30 of the Administrative Code;

(3) Give name of the owner, registered stable or lessee of the horse; the name of the owner, trainer, or authorized agent making the entry; the telephone number of the person making the entry; and the license number of the person making the entry if the license number has been issued;

(a) If the license number has not been issued to the owner or trainer entering the horse, the race office must indicate that the license number is pending for the person making the entry.

(b) The owner or trainer must obtain a license before the horse races and provide that license number to the race office.

(4) Give name, age, and sex of the horse, the event in which the horse is being entered, the name of the trainer of the horse, and the name of the intended driver of the horse;

(5) State if the horse is to race with furosemide (lasix), and if it is the first time the horse is to race with furosemide, that information shall also be included;

(6) Any other relevant medication information

(7) State if the horse is a pacer that is racing without hobbles or a trotter that is racing with hobbles; and

(8) Entries in all events must also comply with the provisions of rule 3769-15-10 of the Administrative Code and for claiming events the current registration certificate must be on file with the racing secretary. A separate claiming authorization form, signed by the registered owner or owners indicating the minimum amount for which the horse may be entered to be claimed, shall be attached to the current registration certificate. *Effective: 1-1-85; 5-7-01; 2-1-11; 5-17-21*

### **3769-15-20. Declarations**

(A) Declarations shall be taken on a regular, well advertised schedule not less than two days or more than five days in advance of a program, except races for which

qualifying dashes or elimination heats are provided in the race conditions.

(B) Once a regular schedule has been established, it can only be changed by consent of the executive director of the Ohio State Racing Commission and such change must be advertised five days in advance of the first new draw date.

(C) Declarations drawn on a single day for more than one day's races (double draw) must first be submitted to and approved by the executive director of the commission.  
*Effective: 1-1-85; 6-6-98*

### **3769-15-21. Elimination heats, divisions**

(A) A permit holder must specify how many entries are required for overnight events and after the condition is fulfilled, the event must be contested except when declared off as provided under rule 3769-14-37 of the Administrative Code--postponement of races:

(1) In early closing events or late closing events, if six or more horses are declared in to start, the race must be contested;

(2) Commercial meetings may require five interests to start. Stakes and futurities must be raced if one or more horses are declared in to start;

(3) In an early closing event, if less horses are declared in than are required to start, and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to all the entrance money and any forfeits from each horse named.

(B) Elimination heats or two divisions:

(1) In any race where the number of horses declared in to start exceeds eleven on a half-mile-track, twelve on a five-eighths-mile track, or fourteen on a larger track, unless lesser numbers are specified in the conditions of the race, at the option of the track conducting the race, the race may be run in elimination heats provided the conditions are so stated before positions are drawn;

(2) In the absence of conditions providing for a lesser number of starters, no more than two tiers of horses, allowing eight feet per horse, will be allowed to start in any race. In no event shall there be allowed more than eleven starters on a half-mile-track, twelve starters on a five-eighths-mile track or fourteen starters on a larger track;

(3) Where a race other than a stake or futurity is divided, each division must race for at least seventy-five per cent of the advertised purse;

(4) At fair meetings, in the case of added money early closing events, and early closers and late closers with a value of twenty thousand dollars or less, the race may be divided and raced in divisions. In such cases each division shall be raced for an equal share of the total purse if the advertised conditions so provide.

(C) Elimination plans:

(1) Whenever elimination heats are required, or specified in the published conditions, such race shall be raced in the following manner unless conducted under another paragraph of this rule. The field shall be divided by lot and the first division shall race a qualifying dash for thirty per cent of the purse. The second division shall race a qualifying dash for thirty per cent of the purse and the horses so qualified shall race in the main event for forty per cent of the purse. The winner of the main event shall be the race winner;

(2) In the event there are more horses declared to start than can be accommodated by the two elimination dashes, then there will be added enough elimination dashes to take care of the excess. The per cent of the purse raced for each elimination dash will be determined

by dividing the number of elimination dashes into sixty. The main event will race for forty per cent of the purse;

(3) Unless the conditions provide otherwise, if there are two elimination dashes, the first four finishers in each dash qualify for the final. If three or more elimination dashes are required, not more than three horses will qualify for the final from each qualifying dash;

(4) The judges shall draw the positions in which the horses are to start in the main event as follows: They shall draw positions to determine which of the two dash winners shall have the pole, and which the second position; which of the two horses that have been second shall start in third position; and which in fourth; and continue this pattern until all horses have been drawn. All elimination dashes and the concluding heat must be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions;

(5) In the event there are three separate heat or dash winners and they alone come back in order to determine the race winner according to the conditions, they will take post positions according to the order of their finish in the previous heat or dash.

(D) In any race where the number of horses declared in to start exceeds eleven on a half-mile-track, twelve on a five-eighths-mile track or fourteen on a one-mile track, unless other numbers are specified in the conditions, the race, at the option of the permit holder conducting same, stated before positions are drawn, may be divided by lot and raced in two divisions with all heat winners from both divisions competing in a final heat to determine the race winner. Each division shall race two heats for twenty per cent of the purse each heat. The remaining twenty per cent of the purse shall go to the winner of the final heat.

(E) Whenever elimination heats are required, or specified in the published conditions of a stake or futurity, such race may be raced on the three-heat plan, irrespective of any provisions in the conditions to the contrary. That is, the field shall be divided by lot and the first division shall race for thirty per cent of the purse, the second division shall race for thirty per cent, and the horses qualifying in the first and second divisions shall race the third heat for thirty per cent of the purse. If, after the third heat, no horse has won two heats, a fourth heat shall be raced by only the heat winners. The race winner shall receive the remaining ten per cent of the purse. The number of horses qualifying to return after each elimination heat will be the same as set out in paragraph (C)(3) of this rule.

(F) Qualifying race for stake. Where qualifying races are provided in the conditions of an early closing event, stake or futurity, such qualifying race must be held not more than five days prior to contesting the main event (excluding Sunday) and omitting the day of the race. *Effective: 1-1-85; 1-1-06*

### **3769-15-22. Overnight list**

The racing secretary shall compile and distribute daily an overnight list which shall carry the names of entries with their post positions. *Effective: 1-1-85*

### **3769-15-23. Must be starter**

Every horse entered and drawn for a race must be a starter unless it is scratched or ordered withdrawn by the starter, judges, or track veterinarian, pursuant to the rules of this chapter. *Effective: 1-1-85*

**3769-15-24. All moneys must be paid**

A horse shall not become a starter for a stakes race unless all moneys required under the conditions shall have been paid. *Effective: 1-1-85*

**3769-15-25. Not a claiming race**

Any race conditioned to preclude claim of any of the starters shall not be considered a claiming race even if won by a horse liable to claim under said conditions. *Effective: 1-1-85*

**3769-15-26. Automatically out**

For stake races, if a horse is not named through the entry box at the designated time of closing, the horse is automatically out. *Effective: 1-1-85*

**3769-15-27. Notice in writing**

Repealed *Effective: 1-1-85; 7-1-98*

**3769-15-28. Scratch irrevocable**

A scratch of a horse whose name appears in a printed program is irrevocable unless the judges determine an error was made. The horse may be allowed to race for purse money but shall be barred from all wagering if wagering has already begun. *Effective: 1-1-85; 2-6-99*

**3769-15-29. Qualifying races**

(A) At all extended parimutuel meetings, declarations for overnight events shall be governed by the following:

(1) Before being declared in, a horse that has not raced previously at the gait chosen must go a qualifying race under the supervision of a judge and acquire at least one charted line by a licensed charter. In order to provide complete and accurate chart information on time and beaten lengths, a standard photo finish shall be used.

(2) A horse that does not show a charted line for the previous season, or a charted line within its last six starts, must go a qualifying race as set forth in paragraph (A)(1) of this rule. Uncharted races contested in heats or more than one dash and consolidated according to paragraph (A)(4) of this rule will be considered one start.

(3) A horse that does not show a satisfactory charted line in the last forty-five days must go in a qualifying race as set forth in paragraph (A) (1) of this rule.

(4) When a horse has raced at a charted meeting during the current season and then started at meetings where the races are not charted, the information from the uncharted races may be summarized including each start, and consolidated in favor of charted lines and the requirements of paragraph (A)(2) of this rule would then not apply.

(5) The consolidated line shall carry date, place, time, driver, finish, track condition and distance if race is not at one mile.

(6) The judges may require any horse that has been on the stewards' list to go a qualifying race. If a horse has raced in individual time not meeting the qualifying standards for that class of horses, he may be required to go a qualifying race.

(7) The judges may permit a fast-class horse to qualify by means of a timed workout consistent with the time of the races in which he will compete in the event adequate competition is not available for a qualifying race. These shall

be limited to free-for-all preferred or invitational class horses.

(8) To enable a horse to qualify, qualifying races should be held at least one week prior to the opening of any race meeting and shall be scheduled at least twice a week, unless consent is given by the Ohio Harness Horsemen's Association for less.

(B) If a horse takes a win race record in a qualifying race, such record must be prefaced with the letter "Q" wherever it appears, except in a case where, immediately prior to or following the race, the horse taking the record has been given an approved urine or blood test. It will be the responsibility of the presiding judge to report the test on the judges' sheet. *Effective: 1-1-85; 7-1-01; 1-1-06*

**3769-15-30. Declaration to start and drawing horses**

(Declaration and entry are used interchangeably as indicated).

(A) Declaration also known as the entry box. Entries may occur by a computerized method approved by the commission, by phone or by using an entry box. The permit holder shall provide a locked box with an aperture through which declarations (entries) shall be deposited.

(B) At all commercial tracks the entry (declaration) box shall be opened by the presiding judge, or an official designated by the presiding judge, at the advertised time. No owner, trainer or authorized agent for a horse with a declaration shall be denied the privilege of being present when the box is opened for the draw. Under the supervision of the presiding judge, or an official designated by the presiding judge, all entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn. An original condition (not substitute races) on the condition sheet may not be altered and the race must be contested if at least eight horses, representing eight separate betting interests, are entered and meet the eligibility standards. If it is necessary to reopen any race, public announcement shall be made at least twice and disseminated via a computerized method approved by the commission and the box reopened at a specified time.

(C) Drawing of post positions for the second heat in races of more than one dash at parimutuel meetings, may be conducted by the judges from the stand for succeeding dashes.

(D) Declarations (entries) by a computerized method approved by the commission, mail, or telephone that are actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final except as specified in this rule. Mail and telephone declarations (entries) must state the same information that is required by subparagraphs (B)(3), (B)(4), (B)(5), (B)(6), and (B)(7) of rule 3769-15-19 of the Administrative Code. It shall be the responsibility of the racing secretary to see that such entries are signed by the person receiving same.

(E) When a track requires a horse to be entered at a stated time, failure to enter as required shall be considered a withdrawal from the event.

(F) After declarations (entries) to start have been made, no horse shall be withdrawn from the race except by permission of the judges. A fine and/or suspension shall be imposed for drawing a horse without permission and the penalty shall apply to both the horse and the party who violated the regulation.

(G) Such drawings shall be final unless there is conclusive evidence that a horse properly entered was omitted from the race through the error of a track or its agent or employee in which event the horse shall be added

to the race but given the last post position, provided the error is discovered prior to either scratch time or the printing of the program; however, in the case of early closers of more than ten thousand dollars and stake and futurity races, the race shall be redrawn. This shall not apply at commercial parimutuel meetings in overnight events.

(H) Drivers may be changed by the owner, trainer or authorized agent until the time prescribed by the judges, after which no driver may be changed by the owner, trainer, or authorized agent without permission of the judges and for good cause.

(I) For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that a race secretary must establish a preference system for races as not more than one conditioned race per day may be divided into not more than two divisions after the preference has been applied and the divisions may be selected by the race secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex. *Effective: 1-1-85; 10-4-92; 2-6-99; 1-1-06; 10-1-06; 2-1-11; 5-17-21*

### **3769-15-31. Also eligible list**

(A) Also eligibles. Not more than two horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. In the event one or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horse shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list can only be withdrawn for good cause by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the race secretary's office. All horses on the also eligible list and not moved in to race by the time prescribed by the judges shall be released.

(B) Preference. Preference shall be given in all overnight events according to a horse's last previous purse race during the current year. The "preference date" on a horse that has drawn to race and had been scratched is the date of the race from which he was scratched.

(1) When a horse is racing for the first time in the current year, the date of the horse's first successful qualifying race shall be considered its last race date, and preference applied accordingly. When an overnight race has been re-opened because it did not fill, all eligible horses declared in to that race prior to the re-opening shall receive preference over horses subsequently declared, irrespective of the actual preference dates.

(2) This rule relating to preference is not applicable for any meeting at which an agricultural fair is in progress. All horses granted stalls and eligible must be given the opportunity to compete at these meetings. This rule may be waived by an agricultural fair with permission of the Ohio State Racing Commission. *Effective: 1-1-85; 5-7-01; 1-1-06*

### **3769-15-32. Steward's list**

(A) The judges may place a horse on the steward's list at any time for any reason and declarations and/or entries on said horse shall be refused. The owner or trainer shall be notified of such action and the reason shall be clearly stated. When any horse is placed on the steward's list, the clerk of course shall record such in the United States Trotting Association computer, showing the date the horse was put on the steward's list, the reason and the date of removal if the horse has been removed.

(B) No presiding judge or other official at a fair meeting shall have the power to remove from the steward's list and accept as an entry any horse which has been placed on a steward's list and not subsequently removed therefrom for the reason that he is dangerous or an unmanageable horse. Such meetings may refuse declarations and/or entries on any horse that has been placed on the steward's list and has not been removed therefrom.

(C) No horse shall be admitted to any race track facilities in Ohio without having had a negative official test for equine infectious anemia within twelve months. It shall be the responsibility of the trainer to see that each horse's test results are current, and the racing secretary's office will record such in the United States Trotting Association computer after the trainer's present the negative coggins test papers to the racing office upon arrival in the barn area.

(D) Qualifying standards shall be set at each track by the race secretary and the judges. These may vary at different times of the year to accommodate weather and the class of horse available. Standards for trotters will be two seconds slower than pacers. Two-year olds will be allowed one second over the standard time for their gait.

(E) Any horse which does not race in qualifying time in two consecutive starts on a good or fast track will automatically be put on the steward's list for performance and must qualify. In its first start off of a qualifying race, any horse who does not go in qualifying time on a good or fast track, shall be placed on the stewards list.

(F) Any horse which makes a break in two consecutive starts, excluding a winning performance, on a good or fast track, shall be put on the steward's list and must qualify. Any horse that makes a break off a qualifying race, excluding a winning performance, on a good or fast track shall be placed on the stewards list.

(G) The judges may make any horse placed on the steward's list qualify repeatedly or until, in their discretion, said horse is ready to start again.

(H) For horses to be scratched sick or lame a scratch slip signed by a veterinarian must be turned into the judges, and the horse shall be placed on the steward's list. No horse scratched sick or lame may be allowed to race until seven days from the date of the race they were scratched and only with a release slip from the veterinarian who scratched them.

(I) Any horse put on the list as dangerous will not be allowed to race in this state.

(J) Any horse that is scratched sick or lame in two consecutive starts must qualify before being allowed to start again.

(K) Any horse scratched sick or lame off a qualifying race, must requalify, if said horse does not race within 14 days of the date of the race from which the horse was scratched. *Effective: 1-1-85; 7-1-98; 7-1-01; 11-2-06; 4-1-07*

### **3769-15-33. Program director**

(A) Each commercial parimutuel track shall designate a program director.

It shall be the responsibility of the program director to furnish the public complete and accurate past performance information.

(B) Program information. A printed program shall be available to the public at all meetings when racing for purses. All programs shall furnish:

- (1) Horse's name and sex;
- (2) Color and age;
- (3) Sire and dam;
- (4) Owner's name;
- (5) Driver's name and colors;
- (6) (L) proceeding horse's name if racing on furosemide.

(C) At commercial parimutuel meetings the following additional information shall be furnished:

(1) In claiming races the price for which the horse is entered to be claimed must be indicated;

(2) At least the last five performances and accurate chart lines. An accurate chart line shall include: date of race; place; size of track if other than a half-mile track; symbol for free-legged pacers; use of furosemide (L); track condition; type of race; distance; the fractional times of the leading horse including race time, post position, position at one-quarter, one-half, three-quarters; stretch with lengths behind leader; individual time of the horse; closing dollars odds; name of the driver; and the names of the horses placed first, second and third by the judges. The standard symbols for breaks and park-outs shall be used, where applicable;

(3) Indicate drivers racing with a provisional license;

(4) Indicate pacers that are racing without hobbles and trotters that are racing with hobbles;

(5) Summary of starts in purse races, earnings, and best win time for current and preceding year. A horse's best win time may be earned in either a purse or non-purse race;

(6) The name of the trainer;

(7) The consolidated line shall carry date, time, place, driver, finish, track condition and distance, if race is not at one mile;

(8) At fairs where parimutuel wagering is permitted, the printed program shall contain at least a current summary on each horse to include the number of starts, firsts, seconds and thirds in the current year and also the earnings and best winning time for the current year.

(D) Failure to furnish reliable program information may subject the permit holder and/or program director to a fine and they may be suspended by the commission until arrangements are made to provide reliable program information.

(E) Inaccurate information. Owners, drivers, trainers, or others found guilty of providing inaccurate information on a horse's performance or of attempting to have misleading information given on a program may be fined and/or suspended by the judges or referred to the commission who may issue penalties under the pro-visions provided in rule 3769-15-99 of the Administrative Code.

(F) Check on identity of horse. Any track official, representative of the commission, or owner, trainer, or driver of any horse declared in to race, wherein the question arises, may call for information concerning the identity and eligibility of any horse on the grounds of a permit holder, and may demand an opportunity to examine such horse or his electronic eligibility with a view to establishing his identity or eligibility. If the owner or party controlling such horse shall refuse to afford such information, or to allow such examination, or fail to give satisfactory identification, the horse and the said owner or party may be fined by the judges or suspended and referred to the commission.

(G) False chart lines. Any official, clerk, or person who enters a chart line on a horse's electronic eligibility when the race has not been charted by a licensed charter may be fined, suspended, or referred to the commission by the judges.

(H) Frivolous demand for identification. Any person demanding the identification of a horse without cause, or merely with the intent to embarrass shall be punished as determined by the judges.

(I) Withholding registration certificate. Any person withholding a registration certificate from the owner or lessee of a horse, after proper demand has been made for the return thereof may be suspended until such time as the certificate is returned. *Effective: 1-1-85; 5-7-01; 1-1-06, 5-17-21*

### **3769-15-34. Ohio standardbred stallion registration and residence eligibility**

The following rule relates to the registration of standardbred stallions pursuant to sections 3769.082 and 3769.085 of the Revised Code.

(A) An Ohio resident for the purpose of determining eligibility under sections 3769.082 and 3769.085 of the Revised Code must comply with the following:

(1) Have been a permanent resident of the state of Ohio for six months and maintain legal residency status in no other state.

(2) If a registered voter, is registered to vote in Ohio only.

(3) Files a personal property tax in Ohio, if required by law to do so.

(B) The owner or lessee of any standardbred stallion desiring to use him for breeding purposes and to have him qualify under this rule must register said stallion with the Ohio state racing commission. Said registration shall be on forms provided by the commission. A stallion which is to stand for the first time in Ohio, must be registered prior to the time he first services a mare that particular breeding season. Beginning with the 1986 breeding season the fee shall be one hundred dollars for the initial registration of a stallion.

(C) Registration of stallions remaining in the state for more than one breeding season must be renewed annually by November thirtieth preceding the breeding season on forms provided by the commission. Beginning with the 1986 breeding season the renewal fee shall be twenty-five dollars.

(D) Owners of standardbred stallions registered with the racing commission shall submit by November thirtieth a report of mares bred during the preceding twelve months.

(E) Cancellation of incorrect registrations. If the commission finds an outstanding registration to be incorrect such registration may be cancelled and notice thereof shall be sent to the owner of the horse.

(F) Cancellation or suspension of registrations. Upon failure of an owner or lessee of a registered stallion to furnish the commission requested information relative to the registration of a horse, the commission may suspend or cancel the registration.

(G) Execution of false application for registration or transfer. If the commission finds that an application for registration or transfer contains false or misleading information, the commission may summon the person who executed said application and any other person who has knowledge thereof. Failure to respond to such summons may cause the commission to suspend or cancel the registration of horses owned by such person. After hearing, the commission may suspend, cancel or bar from further

registration horses owned by the person who executed the false or misleading application.

(H) Registration correction fee. Any person filing an application for registration with incorrect or incomplete information may be charged five dollars to defray costs for re-registration. *Effective: 1-1-85; 1-1-06*

### 3769-15-99. Penalties commission may impose

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 5-1-85*

## CHAPTER 3769-16. CLAIMING AND STARTER RULES

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### 3769-16-01. Winnings

Winnings shall include all prizes up to the time appointed for the start and shall apply to all races in any country and shall embrace walking over or receiving forfeit but shall not include second money or lower or the value of any prize not paid in money. *Effective: 1-1-85*

### 3769-16-02. Winnings start on January first

Winnings during the year shall include all winnings from January first, preceding the start. *Effective: 1-1-85*

### 3769-16-03. Claims

(A) Any horse starting in a claiming race shall be subject to claim for its entered price. All claims must be made in writing on forms and in envelopes furnished by the permit holder. Both forms and envelopes must be filled out completely and must be sufficiently accurate to identify the claim or the claim will be void. A photocopy of the claimant's owner's license or eligibility to claim license must be submitted with the claim.

(B) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed. *Effective: 1-1-85; 1-1-06*

### 3769-16-04. Persons eligible to claim

(A) Any Ohio licensed owner or any person holding an eligibility to claim license may make a claim for any horse subject to claim. Claims may be made by an authorized agent but only for the account of the person for whom he is agent.

(B) An eligibility to claim license may be issued by the Ohio state racing commission subject to rules 3769-12-18, 3769-12-26 and 3769-12-30 of the Administrative Code, to any applicant who provides a completed fingerprint card, the name of a licensed trainer who will assume the responsibility for the care of the horse claimed, together with the requisite fee. An eligibility to claim license is valid for thirty days from the date of purchase. Should a person successfully claim a horse within thirty days, such person shall purchase an owner's license prior to starting said horse. Should a person not successfully claim a horse within thirty days of purchase, the license shall be considered null and void, but such person may purchase additional eligibility to claim licenses until a successful claim has been made.

(C) Any person claiming a horse under this rule must also comply with rules 3769-16-10 and 3769-16-11 of the Administrative Code. *Effective: 1-1-85; 1-1-91; 1-1-06*

### **3769-16-05. Time for depositing claim**

The permit holder shall provide a locked box in which claims shall be deposited in a sealed envelope. The judges shall have keys to the box. Only the money required for a registration transfer shall accompany the claim. The claim shall be deposited in the box no later than fifteen minutes before post time of the race in which the claim is made. Once a claim is deposited it may not be removed. Personnel receiving claim shall note the time and date when received. The judges shall certify its validity and direct delivery of the horse if the claiming price is on deposit. *Effective: 1-1-85; 2-6-99; 1-1-06*

### **3769-16-06. Information on claims restricted**

No official or other employee of a permit holder shall give any information as to the filing of claims until after the race has been run. *Effective: 1-1-85*

### **3769-16-07. Title vested**

Each horse shall race for the account of the person in whose name it starts, but title to the claimed horse shall be vested in the claimant from the time it becomes a starter as defined in rule 3769-11-28 of the Administrative Code or as provided for in rule 3769-16-19 of the Administrative Code. If more than one person shall enter claims for the same horse, they shall cast lots to determine the right to consummate the claim in the presence of the judges, and the one determined by lot shall become the owner of the horse. In any case, the claimant shall take the claimed horse whether it be alive or dead, sound or unsound, or injured during the race or after it. *Effective: 1-1-85; 1-1-06*

### **3769-16-08. Deliver to paddock**

Any horse that has been claimed shall, after the race has been contested, be taken to the paddock for delivery to the claimant by the trainer who entered the horse in the race or his designated representative. The successful claimant or designated representative shall be allowed to measure the hobbles and overcheck of the claimed horse immediately following the race. *Effective: 1-1-85; 1-1-06*

### **3769-16-09. Failure to deliver**

Any person who refuses to deliver a horse claimed out of a claiming race, shall be suspended and the horse shall be suspended. *Effective: 1-1-85*

### **3769-16-10. Restriction on sale of claimed horse**

No horse claimed out of a claiming race shall be sold or transferred to anyone within thirty days of the day it was claimed except in another claiming race nor shall such horse remain in the same stable or under the care or management of its former owner or trainer. *Effective: 1-1-85; 6-1-95*

### **3769-16-11. Moving & racing restrictions of claimed horse**

(A) No horse claimed in Ohio shall race at any other track in the state until the close of the current meeting at the track at which the claim was made or for thirty days,

whichever is the shorter period of time, unless by permission of the judges at the meeting. If a claimed horse is eligible to added money races at an Ohio track other than where he was claimed, the horse may race at the other track in those races only.

(B) Unless by permission of the commission or its executive director, no horse claimed in Ohio may be raced in another state for sixty days. *Effective 1-1-85; 5-1-85; 6-1-95; 2-6-99; 7-1-01; 1-1-06; 10-1-06*

### **3769-16-12. Claiming prices determined**

(A) A claimed horse may be entered in subsequent claiming races for such claiming price as the claimant of said horse may determine.

(B) Any horse scratched from a claiming race must race for the same claiming price or less in its next start and its next start must be a claiming race or until thirty days has passed. *Effective: 1-1-85*

### **3769-16-13. Cannot claim own horse**

No person can claim his own horse or cause his horse to be claimed directly or indirectly for his own account; nor shall any person claim more than one horse from any one race. When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race. The judges shall penalize any violator of this rule. *Effective: 1-1-85*

### **3769-16-14. One claim per race**

No authorized agent or trainer although representing several owners shall submit more than one claim for any one race. *Effective: 1-1-85*

### **3769-16-15. Agreement prohibited**

Any person who shall offer or enter into an agreement to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race, or attempt by intimidation to prevent anyone from starting a horse in any race for which it is entered, or any owners starting horses in a claiming race who make an agreement for the protection of each other's horses may be penalized by the judges and/or the commission. *Effective: 1-1-85*

### **3769-16-16. Written consent**

Any person or persons who shall enter or allow to be entered in a claiming race, a horse against which any lawful claim is held, either by mortgage, bill of sale or lien of any kind, may be penalized unless before entering the horse, written consent of the holder of the claim shall be filed with the racing secretary. *Effective: 1-1-85*

### **3769-16-17. Disputed ownership**

Any person who makes a false ownership claim to a horse may be fined and/or suspended or they may be suspended and referred to the commission for any disciplinary action the commission deems advisable. *Effective: 1-1-85*

### **3769-16-18. Affidavit by claimant**

The judges shall require any person making a claim for a horse to make affidavit that he is claiming said horse for his own account or as an authorized agent and not for any other undisclosed person. Any person making such affidavit

falsely may be subject to penalty by the judges and/or the commission. *Effective: 1-1-85*

**3769-16-19. Claiming rules for scratched horse, blood test, conditions, registration**

(A) No horse may be claimed from a claiming race unless said horse is declared a starter.

(B) Blood sample procedure if horse is claimed. In the event a horse is claimed, a blood sample may be taken by a licensed veterinarian, and the sample identified as being from the claimed horse shall be forwarded within twenty-four hours to an approved laboratory to be tested for equine infectious anemia. Pending the receipt of a negative test for equine infectious anemia, the money paid for the claimed horse shall be held by the track. In the event of a positive test for equine infectious anemia, the ownership of the claimed horse shall revert to the owner from whom the horse was claimed and the claiming money shall be returned to the person or persons who claimed the horse. The cost of the test is to be borne by the claimant. The test may be waived by the claimant at his discretion by so indicating on the claiming slip.

(C) Claiming conditions. If sexes are mixed, mares shall be given a price allowance, provided, however, that there shall be no price allowance given to a spayed mare racing in a claiming race.

(D) Minimum price. No claiming races shall be offered permitting claims for less than the minimum purse offered at that time during the same racing week.

(E) Determination of claiming price. No horse owner shall be prohibited from determining the price for which his horse shall be entered. *Effective: 1-1-85; 10-14-88; 4-1-99; 5-7-01; 10-1-06*

**3769-16-20. Sound of bugle**

A bugle shall sound as the horses come upon the track. After the horses enter the track, the course to be raced over shall be closed to all but racing officials until the judges direct that it be reopened. *Effective: 1-1-85; 1-1-06*

**3769-16-21. In hands of starter**

(A) Horses shall be in the hands of the starter from the time they arrive on the track until the start is effected. All horses shall parade from the paddock to the starting post, and no driver shall dismount without the permission of the starter. Attendants may not care for horses during the parade except by permission of the starter.

(B) After entering the track not more than twelve minutes shall be consumed in the parade of the horses to the post except in cases of unavoidable delay. *Effective: 1-1-85*

**3769-16-22. Fair start**

The starter shall give such orders and take such measures that do not conflict with the rules of racing, as are necessary to secure a fair start. *Effective: 1-1-85*

**3769-16-23. Starter's duties**

The starter shall be in the starting gate fifteen minutes before the post time of the first race. He shall have control over the horses and authority to assess fines and/or suspend drivers for any violation of the rules from the formation of the parade until the word "go" is given. He may assist in placing the horses when requested by the judges to do so. He shall notify the judges and the drivers in writing of

penalties imposed by him. His services shall be paid for by the permit holder employing him. An assistant starter may be employed when a permit holder deems it necessary. *Effective: 1-1-85*

**3769-16-24. Starting**

(A) Starter's control. The starter shall have control of the horses from the formation of the parade until he gives the word "go."

(1) Scoring: After one or two preliminary warming-up scores, the starter shall notify the drivers to come to the starting gate. During or before the parade the drivers must be informed as to the number of scores permitted.

(2) The horses shall be brought to the starting gate as near one-quarter of a mile before the start as the track will permit.

(3) Speed of gate: Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained:

(a) For the first one-eighth mile, not less than eleven miles per hour. (b) For the next one-sixteenth of a mile, not less than eighteen miles per hour. (c) From that point to the starting point, the speed will be gradually increased to maximum speed.

(B) The starting point will be not less than two hundred feet from the first turn. The starting point shall be clearly identified by a distinctively colored pole at least two feet above the existing pylons. The starter shall give the word "go" at the starting point.

When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall. *Effective: 1-1-85; 12-1-86; 8-1-19*

**3769-16-25. Recall rules**

In case of a recall, a light plainly visible to the drivers shall be flashed and a recall sounded, but the starting gate shall proceed out of the path of the horses. At commercial parimutuel tracks, in the case of a recall, wherever possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. In an emergency, however, the starter shall use his discretion to close the wings of the gate.

(A) There shall be no recall after the word "go" has been given unless there is a mechanical failure of the starting gate. Any horse, regardless of his position or an accident, shall be deemed a starter from the time he entered into the starter's control unless dismissed by the starter.

(B) Breaking horses. The starter shall endeavor to get all horses away in position and on gait but there shall be no recall for a breaking horse.

(C) The starter may sound a recall only for the following reasons:

- (1) A horse scores ahead of the gate;
- (2) There is interference;
- (3) A horse has broken equipment;
- (4) A horse falls before the word "go" is given;
- (5) A mechanical failure of the starting gate
- (6) A horse comes to the gate out of position.

(D) In the event a horse causes two recalls, it shall be an automatic ruling of the judges that the offending horse be scratched and a mutuel refund ordered.

(E) Horses not up to the gate in position due to the fault of the driver may result in the driver being penalized by the starter as provided by rule 3769-16-26 of the Administrative Code. *Effective: 1-1-85; 4-3-86; 10-6-89; 11-1-96*

**3769-16-26. Penalties, starter**

(A) A fine not to exceed two hundred fifty dollars or suspension from driving not to exceed ten days, or both, may be applied to any driver by the starter for:

- (1) Delaying the start;
- (2) Failure to obey the starter's instructions;
- (3) Rushing ahead of the inside or outside wing of the gate;
- (4) Coming to the starting gate out of position;
- (5) Crossing over before reaching the starting point;
- (6) Interference with another driver during the start;
- (7) Failure to come up into position.

(B) The judges may impose a more extended penalty, if in their judgment such be warranted. *Effective: 1-1-85*

**3769-16-27. Riding in gate, equipment, two tiers**

(A) No persons shall be allowed to ride in the starting gate except the starter and his driver or operator unless permission has been granted by the commission or the judges.

(B) The use of mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.

(C) Horses may be held on the backstretch not to exceed two minutes awaiting post time, except when delayed by an emergency as determined by the judges.

(D) In the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

Whenever a horse is drawn from any tier, horses on the outside move in to fill the vacancy. Where a horse has drawn a post position in the second tier, the driver of such horse may elect to score out behind any horse in the first tier so long as he does not thereby interfere with another trailing horse or deprive another trailing horse of a drawn position. *Effective: 1-1-85; 5-17-21*

**3769-16-28. Starting without gate**

(A) When horses are started without a gate the starter shall have control of the horses from the formation of the parade until he gives the word "go." He shall be located at the wire or other point of start of the race at which point as nearly as possible the word "go" shall be given. No driver shall cause unnecessary delay after the horses are called. After two preliminary warming-up scores, the starter shall notify the drivers to form in parade.

(B) The driver of any horse refusing or failing to follow the instructions of the starter as to the parade or scoring ahead of the pole horse may be set down for the heat in which the offense occurs, or for such other period as the starter shall determine, and may be fined. Whenever a driver is taken down, the substitute shall be permitted to score the horse once. A horse delaying the race may be started regardless of his position or gait and there shall not be a recall because of a bad actor. If the word "go" is not given, all the horses in the race shall immediately turn on signal, and jog back to their parade positions for a fresh start. There shall be no recall after the starting word has been given. *Effective: 1-1-85*

**3769-16-29. Starters, unmanageable, bad acting horses, post positions by heats**

(A) Starters: the horses shall be deemed to have started when the word "go" is given by the starter and all the horses must go the course except in case of an accident in which it is the opinion of the judges that it is impossible to go the course.

(B) Unmanageable horse: if, in the opinion of the judges or starter, a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, it may be sent to the barn. When this action is taken, the starter will notify the judges who will in turn notify the public, and refund all wagers on said horse.

(C) Bad acting horse: the starter may place a bad acting horse on the outside at his discretion. Such action may be taken only where there is time for the starter to notify the judges who will in turn notify the public prior to the sale of tickets on such race. If tickets have been sold, the bad acting horse must be scratched under the provision of paragraph (B) of this rule.

(D) Post positions, heat racing: the horse winning a heat shall take the pole (or inside position) the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed the last heat. When two or more horses shall have made a dead heat, their positions shall be settled by lot.

(E) Shield: the arms of all starting gates shall be provided with a screen or shield in front of the position for each horse, and such arms shall be perpendicular to the rail.

(F) Every licensed starter is required to check his starting gate for malfunctions before commencing any meeting, and to practice the procedure to be followed in the event of malfunction. Both the starter and the driver of the gate must know and practice emergency procedures, and the starter is responsible for the training of drivers in such procedures. *Effective: 1-1-85*

**3769-16-30. Starter's list**

The starter or his assistants shall school such horses as may be necessary and shall prepare a list of horses not qualified to start, which shall be delivered to the judges and entered on the steward's list. The steward's list shall be posted in the racing secretary's office with the list of horses not qualified to start. *Effective: 1-1-85*

**3769-16-31. Not permitted to wager on races**

No starter or assistant starter shall either directly or indirectly wager on any race or engage in any betting transaction; nor shall he or they directly or indirectly receive presents, gratuities, remuneration or tips from any person or persons or have any interest in any horse under the penalties provided by these rules. *Effective: 1-1-85*

**3769-16-32. Outrider mandatory**

Each commercial permit holder shall provide one qualified person who shall serve as an outrider positioned on the track immediately prior to and during the running of all races held at such track. The general manager of each commercial track must submit to the commission certification that such person is qualified to serve as an outrider. *Effective: 1-1-03*

**3769-16-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend

licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 1-1-85; 5-1-85*

## CHAPTER 3769-17. DRIVING RULES AND VIOLATIONS

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### 3769-17-01. Owners licensed and 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 commission. Any owner who drives his horse in a race must have a driver's license in addition to an owner's license.

(B) In addition to all other rules applicable to license as promulgated by the commission, an owner and trainer 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 and trainer must provide satisfactory proof of such workers' compensation coverage. *Effective: 1-1-85; 1-1-87; 10-4-92; 8-1-19*

### 3769-17-02. Owners' requirements, corporations, partnerships, syndicates, entities

(A) To make application for an owner's license, a corporation must supply to the commission a copy of its articles of incorporation, a certified roster of corporate officers and directors, one of whom must be designated as the chief executive officer, and a certified roster of shareholders including the number of shares and the percentage of the total outstanding shares held by each.

(B) To participate as an ownership entity, a corporation must acquire an owner's license itself, an owner's license for the chief executive officer and for any shareholder who possesses five per cent or more of the total outstanding shares. In applying this rule, if the aggregate per cent of ownership of two or more family members, as defined below, exceeds five per cent or more, then each and every family member with an ownership interest must be licensed. A "family member" is a spouse or blood relative of a single family limited to children, parents, aunts, uncles, grandparents, nieces or nephews.

(C) The commission reserves the right to refuse to license or to rescind a license of any corporation if any

officer, director or shareholder does not meet the commission's eligibility requirements.

(D) To participate as an ownership entity, a partnership must supply to the commission the partnership or syndication agreement which lists all partners and the portion of the entity owned by each.

(E) Every member of a partnership possessing five per cent or more interest must acquire an owner's license. In applying this rule, if the aggregate per cent of ownership of two or more family members, as defined below, exceeds five per cent or more, then each and every family member with an ownership interest must be licensed. A "family member" is a spouse or blood relative of a single family, limited to children, parents, siblings, aunts, uncles, grandparents, nieces or nephews.

(F) If no member of a partnership owns five per cent or more interest as defined in paragraph (E) above, the partnership is required to designate one partner as the managing partner and that person must acquire a license as an owner.

(G) The commission reserves the right to bar the participation of a partnership if any partner does not meet the commission's eligibility requirements.

(H) When a partnership which owns horses is comprised of six or more individuals, it shall be required to adopt a stable name, registered under the provision of these rules.

(I) Horses shall be regarded as having a common owner when an owner of one horse, either as an individual or as a licensed member of a partnership or as a licensed shareholder of a corporation shall have an ownership interest in another horse, either as an individual or as a licensed member of a partnership or as a licensed shareholder of a corporation. *Effective: 1-1-85; 2-6-99*

### **3769-17-03. Authorized agent**

Any owner or trainer may engage an authorized agent or agents who may handle all business between the permit holder and the agent's principal. No authorized agent shall be licensed by the commission except upon receipt of written notice of their engagement as an agent by an owner and/or a trainer. *Effective: 1-1-85*

### **3769-17-04. Substitute trainer**

When a trainer is to be absent from his stable or the grounds where his horses are racing at a time when a horse under his care is scheduled to race or for a period of more than two racing days, he must provide a licensed trainer or assistant trainer to assume the joint responsibility for the horses he is training. Such licensed trainer or assistant trainer shall sign in the presence of the judges a statement accepting responsibility for such horses being trained. *Effective: 1-1-85*

### **3769-17-05. Physical examination**

(A) Drivers, when required by the judges, must provide a medical affidavit certifying that they are physically and mentally capable of performing the activities and duties of a licensed driver, including satisfactory evidence of an eye examination indicating twenty/fifty corrected vision in both eyes, or if blind in one eye, at least twenty/thirty corrected vision in the other eye, are free of any disabling defects or contagious disease and are not a user of any illicit or prohibited drugs or narcotics.

(B) The judges may refuse to allow any driver to drive at a meeting until the required medical affidavit is presented to the judges. *Effective: 1-1-85; 2-1-94*

### **3769-17-06. Restriction on financial interest**

No driver who has any financial interest in any race horse in training at a meeting shall drive any other horse in the same race with his horse at the same meeting. *Effective: 1-1-85*

### **3769-17-07. Wager restriction**

No driver, trainer or owner shall wager on any horse other than his own horse in any race in which he participates or permit anyone to so wager for him. For any violation of this rule, the driver, trainer or owner may be subject to such penal-ties provided by the rules of this commission. *Effective: 1-1-85*

### **3769-17-08. Shall not converse**

Drivers, trainers, owners and grooms shall not converse or otherwise exchange information with anyone outside the paddock after they have entered therein, except on permission from the paddock judge, and they shall be disciplined for any breach of this rule. *Effective: 1-1-85*

### **3769-17-09. Safety helmet**

No individual will be permitted to drive a horse on a permit holder's premises unless wearing a protective safety helmet of a type satisfactory to the commission with chin strap in place. *Effective: 1-1-85; 12-1-86; 10-4-92; 10-1-06*

### **3769-17-09.1 Safety reins**

(A) No person riding on a sulky or jog cart shall race, train or jog a horse on the grounds of a facility under the jurisdiction of the Ohio State Racing Commission unless the horse is equipped with safety reins. A safety rein is a rein designed and constructed to provide a secure secondary attachment to the bit that is secured to a reinforcement material to prevent failure due to breakage of the rein, or breakage or inadvertent loss of the primary connection to the bit.

(B) This rule is enacted to adopt the safety measures encouraged by the Association of Racing Commissioners International. Upon notification from the Association of Racing Commissioners International that standards for the safety reins have been set, the Commission shall send notice to the Ohio Harness Horsemen's Association and any other group or persons who request such notice. The notice will indicate that Rule 3769-17-09.1 paragraph (A) of this rule will be enforced on the one-hundred eightieth (180) day after the date of the notice. *Effective: 7-1-08*

### **3769-17-10. Attire**

(A) Drivers must wear distinguishing colors and clean white pants, and shall not be allowed to start in a race or other public performance unless in the opinion of the judges they are properly dressed.

(B) Any driver wearing colors who shall appear at a betting window or at a bar or in a restaurant dispensing alcoholic beverages shall be fined and/or suspended

(C) Any person appearing on the track behind a horse entered to race, must wear driving boots approved by the judges. *Effective: 1-1-85; 10-1-06*

**3769-17-11. Driving rules**

(A) Although a leading horse is entitled to any part of the track, neither the driver of the first horse or any other driver in the race shall do any of the following things, which shall be considered a violation of driving rules:

(1) Change either to the right or left during any part of the race when another horse is so near him that in altering his position he compels the horse behind him to shorten his stride, or cause the driver of such other horse to pull him out of his stride;

(2) Jostle, strike, hook wheels or interfere with another horse or driver;

(3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers;

(4) Swerve in and out or pull up quickly;

(5) Crowd a horse or driver by putting a wheel under him;

(6) Carry a horse out;

(7) Sit down in front of a horse or take up abruptly in front of other horses so as to cause confusion or interference among trailing horses;

(8) Let a horse pass inside needlessly or otherwise help another horse to improve his position in the race;

(9) Commit any act which shall impede the progress of another horse or cause him to break;

(10) Change course after selecting a position in the home-stretch or swerve in and out, or bear in and out, in such a manner as to interfere with another horse or cause him to break;

(11) To drive in a careless or reckless manner;

(12) Whipping under the arch of the sulky, the penalty for which shall be days suspended;

(13) Lay off a normal pace and leave a hole when it is well within a horse's capacity to keep the hole closed;

(14) If any of the above violations is committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back, if, in their opinion, the violation may have affected the finish of the race. Otherwise, penalties may be applied individually to the drivers of any entry.

(B) All complaints by drivers of foul driving or misconduct during the race must be made after the race, unless the driver is prevented from doing so by an accident or injury. Any driver desiring to enter a claim of foul or other complaint of violation of the rules, must, before dismounting, indicate to the judges or patrol judge his desire to enter such claim or complaint and, upon dismounting, shall proceed to the telephone or judges' stand where and when such claim, objection, or complaint shall be immediately entered. The judges shall not cause the official sign to be displayed until such claim, objection, or complaint shall have been entered and considered.

(C) In case of interference, collision, or violation of any of the above restrictions, the offending horse may be placed back one or more positions in that race, and in the event such collision or interference prevents any horse from finishing the race, the offending horse may be disqualified from receiving any winnings and the driver shall be fined and/or suspended. In the event a horse is set back under the provisions hereof, he must be placed behind the horse with whom he interfered.

(D) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or has been driven with intent to prevent his winning a heat or dash which he was evidently able to win, or is being raced in an inconsistent manner or to perpetrate or to aid a fraud, they shall consider it a violation and the driver, and anyone

in concert with the driver to so affect the outcome of the race or races, may be suspended, or referred to the commission. The judges may substitute a competent and reliable driver at any time. The substituted driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(1) In the event a drive is unsatisfactory due to lack of effort or carelessness, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent drive, they may suspend his license for up to one year and/or impose a one thousand dollar fine.

(2) Every horse shall be driven to the finish unless injured. Any driver who shall rein in before crossing the finish line or who shall fail to use his utmost exertion to obtain a winning performance from the horse driven by him shall be fined, suspended, or referred to the commission.

(3) Drivers must set or maintain a pace comparable to the class in which they are racing. Failure to do so which holds up the field of horses or causes confusion among the trailing horses will be considered a violation of this rule and the judges may impose a penalty.

(4) In the event a penalty is placed on a driver under any of paragraphs (D)(1) to (D)(4) of this rule, the horse may be placed on the judges' list and may not be removed therefrom until it goes in a qualifying race and qualifies in a time comparable to the class of the horse. *Effective: 1-1-85; 2-6-99*

**3769-17-12. Foul driving, disqualification**

The judges shall take cognizance of foul driving, whether objection to same is made or not. The judges shall determine the extent of disqualification in cases of fouls occurring during the running of the race. They may place an offending horse just behind such horses as in their judgment it interfered with, or they may place it last. *Effective: 1-1-85*

**3769-17-13. Complaints against officials**

Complaints against an official or officials shall be made to the judges in writing, signed by the complainants. All such complaints shall be reported by the judges in writing to the commission together with any action taken thereon. *Effective: 1-1-85; 10-1-06*

**3769-17-14. List or replace driver**

(A) Every owner or trainer shall, if possible, upon making entry, furnish the name of the driver who will drive his horse, but if this is not possible, the name must be furnished at a time designated by the judges. At such time he shall report the equipment his horse will carry. The report shall include information regarding the equipment the judges require to be reported.

(B) If an owner or trainer does not name a driver for its entered horse by the time designated by the judges, the judges shall select and name a competent driver to drive that horse.

(C) The judges may replace any driver and/or trainer with a driver and/or trainer of their selection for cause or on suspicion of fraudulent practices or attempts. Any such action shall be reported by the judges to the commission with reasons therefor. *Effective: 1-1-85; 5-1-85; 4-1-88*

**3769-17-15. Horse must finish**

If for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled out. *Effective: 1-1-85*

**3769-17-16. Improper conduct in race**

(A) Loud shouting or other improper conduct is forbidden in a race.

(B) Drivers shall keep both feet in the stirrups at all times while on the track and during the race, except to pull ear plugs.

(C) Drivers shall not use any part of their feet and/or legs to impel a horse whether or not the feet remain in the stirrups.

(D) Drivers shall not lean back excessively in the sulky during a race and shall keep the hand holds set in a position to keep control of the horse. *Effective: 1-1-85; 10-1-06*

**3769-17-17. Use of the whip**

(A) All drivers must keep a line in each hand beginning when the horse is behind the starting gate and continuing through the finish of the race.

(B) Whipping shall be restricted to elbow and wrist action only and the whipping arm shall not be raised above the driver's shoulder height.

(C) Drivers shall not move their whipping arm in an exaggerated manner and the lines shall remain reasonably taut during the race.

(D) Drivers shall not use the whip below the level of the shaft, forward of the race bike's wheels.

(E) Drivers shall not place the whip between the horse's legs.

(F) Drivers shall not strike another horse or driver with the whip.

(G) Drivers shall not use the handle of a whip on a horse.

(H) Drivers are permitted to use their hand or the whip in a sliding or gliding manner above the level of the shaft.

(I) Drivers shall not use the whip on a tired horse, on a horse that is not visibly responding, or when a horse is not in contention in a race.

(J) Drivers shall not use the whip without giving the horse time to respond to a previous application of the whip.

(K) Whips shall be no longer than forty-eight inches with the cracker no longer than six inches in length. Only a conventional cracker shall be permitted. No leather or unusual materials may be used. The conventional cracker shall not be knotted and tape is only permitted on the handle of the whip. All other modifications of the whip are prohibited.

(L) Excessive, indiscriminate, visibly injurious, or abusive use of the whip is prohibited.

(M) In addition to the penalties provided in Rule 3769-17-99, the violation of any of the provisions in this rule may result in loss of placement or disqualification. *Effective: 1-1-85; 10-4-92; 10-5-98; 10-5-06; 7/19/2015*

**3769-17-18. Brutal use of whip**

The brutal use of a whip, crop, or excessive or indiscriminate use of the whip or crop shall be considered a violation and shall be punished by a fine and/or suspension. *Effective: 1-1-85*

**3769-17-19. Hopples; head pole, restrictions**

(A) A horse that wore hopples in its previous race shall not be permitted to start in a race at any pari-mutuel meeting without them unless the horse goes without hopples in a qualifying race under the supervision of a judge or acquires at least one charted line by a licensed charter while not wearing hopples.

(B) A horse that did not wear hopples in its previous race shall not be permitted to wear hopples in a race at any extended pari-mutuel meeting unless the horse goes with hopples in a qualifying race under the supervision of a judge or acquires at least one charted line by a licensed charter while wearing hopples.

(C) Any person found guilty of removing, adding, or altering a horse's hopples during a race, or between races, may be fined and/or suspended.

(D) No horse shall be permitted to wear a head pole protruding beyond its nose. *Effective: 1-1-85; 10-1-06*

**3769-17-20. Breaking**

(A) When any horse breaks from their gait, the driver shall at once, where clearance exists, take the horse to the outside and pull it to its gait. The driver may take the horse inside the pylons if clearance to the outside does not exist.

(1) The following shall be considered violations of paragraph (A) of this rule:

(a) Failure to properly attempt to pull horse to its gait;

(b) Failure to take to the outside where clearance exists or inside if clearance to the outside does not exist;

(c) Failure to lose ground by the break.

(2) If there has been no failure on the part of the driver in complying with paragraph (A) of this rule, the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish. The judges may or may not set back a horse who is off stride at the finish, if in their discretion, the horse was off stride due to interference.

(3) The judges may set any horse back one or more places if in their judgment any of the above violations have been committed.

(4) Any horse making a break in two successive starts on a good or fast track, excluding winning performances, shall be placed on the stewards' list.

(B) Any horse making a break which causes interference to other contesting horses may be placed behind any or all offended horses. *Effective: 1-1-85; 2-6-99; 10-1-06*

**3769-17-21. Fraudulent break**

If, in the opinion of the judges, a driver allows his horse to break for the purpose of fraudulently losing a heat, he shall be liable to the penalties elsewhere provided in the rules of the Ohio state racing commission. *Effective: 1-1-85*

**3769-17-22. Official winning race records**

The leading horse shall be timed and his time only shall be announced. The horse finishing behind a horse disqualified by the judges may obtain a win race record if the horse's actual race time can be determined by photo finish or electronic timing. *Effective: 1-1-85; 2-6-99; 10-1-06*

**3769-17-23. Judges call breaks**

To assist in determining the charting of a race, it shall be the duty of one of the judges to call out every break made, and the clerk shall at once note the break and character of it in writing. *Effective: 1-1-85*

**3769-17-24. Time between heats**

The time between separate heats of a single race shall be no less than forty minutes. No heat shall be called after

sunset where the track is not lighted for night racing.  
*Effective: 1-1-85*

### **3769-17-25. Accidents, time allowed**

In the case of accidents, the judges shall allow only so much time as they deem necessary and proper before resuming the racing program. *Effective: 1-1-85*

### **3769-17-26. Driver must be seated**

A driver must be seated in his sulky at the finish of the race or the horse must be placed as not finishing. *Effective: 1-1-85*

### **3769-17-27. Provide wheel disk, mud fenders**

It shall be the responsibility of the owner and trainer to provide every sulky used in a race with unicolored or colorless wheel discs on the inside and outside of the wheel of a type approved by the racing commission. In his discretion, the presiding judge may order the use of mud guards at parimutuel tracks, and these shall be provided by the owners and/or trainers. *Effective: 1-1-85*

### **3769-17-28. Horse falls on track**

Should any horse in a race fall or get loose on the track or be involved in an accident of any kind after starting to warm-up, that horse shall only be permitted to start after examination and approval by the track veterinarian. Should any horse fall or get loose during the post parade or during the time elapsed before the word "go" is given, that horse shall only be permitted to start after examination by the track veterinarian and approval by the judges. If the horse is scratched, all wagers on that horse will be refunded. *Effective: 1-1-85; 10-1-06*

### **3769-17-29. Disorderly conduct**

(A) The following shall constitute disorderly conduct and be reason for any penalty of a driver or trainer as provided by these rules:

(1) Failure to obey the judges' orders that are expressly authorized by the rules of this commission;

(2) Failure to drive when programmed unless excused by the judges;

(3) Drivers shall not use intoxicants or drugs of any type during the racing day and shall be disciplined if they fail to report sober and in fit condition to fulfill their engagements. Drivers may be granted permission by the judges to use drugs prescribed by a physician;

(4) Appearing in the paddock in an unfit condition to drive;

(5) Fighting;

(6) Assaults;

(7) Offensive and profane language;

(8) Smoking on the track in silks during actual racing hours;

(9) Warming-up a horse prior to racing without silks;

(10) Disturbing the peace;

(11) Refusal to take a breath test when directed by the presiding judge;

(12) Extended conversations between drivers before, during, or after a race, or while warming up, unless there is an emergency.

(B) The following shall constitute disorderly conduct and be reason for any penalty of any licensee as provided by these rules:

(1) Failure to obey the judges' orders that are expressly authorized by the rules of this commission;

(2) Fighting;

(3) Assaults;

(4) Offensive and profane language;

(5) Disturbing the peace;

(6) Refusal to take a breath test when directed by the presiding judge.

(7) Having a horse on the track during racing hours with no saddle pad or an incorrect saddle pad. *Effective: 1-1-85 1-1-87; 8-1-91; 10-1-06*

### **3769-17-30. Suspensions for driver and/ or trainer**

The judges may write suspensions in these main categories:

(A) "Limited suspensions," used to suspend drivers for minor driving or other violations under which they may not drive during the term of the suspension but may continue to train and enter horses trained by them. This suspension shall be written to include the words "from driving only."

(B) "Full suspension," used when the judges in their determination feel the violation so warrants, the driver and/or trainer shall not be allowed to enter or start any horses trained by the person affected. Owners involved with a driver and/or trainer under this suspension may be allowed to transfer their horses to another trainer to continue racing but only with the permission of the judges and for just cause. *Effective: 1-1-85*

### **3769-17-31. Effect of minor penalty on future engagements**

Where the penalty is for a driving violation and does not exceed in time a period of five days, the driver may complete the engagement of all horses declared in before the penalty becomes effective. During a suspension of five days or less such drivers may drive in stake, futurity, early closing and feature races only but the suspension will be extended one day for each date they drive in such a race. *Effective: 1-1-85*

### **3769-17-32. Reciprocity**

(A) If a person or horse is suspended, expelled, ruled off, or if his/her license is revoked, application for a license has been denied, or is under any other current penalty pursuant to the rules of the racing authority of any other state or country, such person or horse shall stand suspended, expelled, ruled off or denied a license at all tracks operating under permit from the Ohio state racing commission until the ruling be withdrawn by the originating authority.

(B) All owners of harness horses who hold current and valid harness horse licenses in any other state or racing jurisdiction which has full reciprocity with the Ohio state racing commission may be eligible for an owner's reciprocal validation license.

(C) The commission may license persons holding valid permanent (not temporary) licenses issued by association of racing commissioners international member racing jurisdictions in North America. The licensee must be in good standing; have cleared a federal bureau of investigation or equivalent criminal investigatory organization fingerprint check within the previous thirty-six months; file an application and/or affidavit as required by the commission, and pay the applicable fees required prior to racing. *Effective: 1-1-85; 10-4-92*

**3769-17-33. Horse also suspended**

(A) If a person is suspended, ruled off or expelled, every horse owned wholly or in part or trained by that licensee may also be suspended, ruled off or expelled, for the same period of time as the owner or trainer.

(B) Under unusual circumstances and/or for justifiable reasons the stewards, and/or commission may shorten the period of suspension time for a horse. *Effective: 1-1-85; 8-1-91*

**3769-17-34. Return money, prizes**

If any person or persons is suspended, ruled off or expelled for fraudulent practice in relation to a horse or horses, wholly or in part their property, he shall return all money and prizes which such horse has fraudulently won. *Effective: 1-1-85*

**3769-17-35. Improper language**

If any licensed person uses improper language to the racing officials or member of the racing commission or threatens such officials, or if any person uses profane or indecent language, carries or exhibits a deadly weapon, or otherwise disturbs the peace of any race track enclosure, he may be ejected, fined, suspended or referred to the commission for any penalty provided by these rules. *Effective: 1-1-85*

**3769-17-36. Payment of fines**

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 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. *Effective: 1-1-85; 10-1-06; 8-1-19*

**3769-17-37. Must pay own fine**

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. *Effective: 1-1-85; 10-1-06; 8-1-19*

**3769-17-38. Fraudulent practices**

(A) No person shall:

(1) Corruptly give or offer money, share in a bet or other benefit to any person having official duties in relation to a race or to any driver;

(2) Having official duties in relation to a race or any driver, corruptly accept or offer to accept money, share in a bet or any benefit;

(3) Willfully enter or cause to be entered or to start in any race a horse which they know to be disqualified;

(4) Fraudulently offer or receive any amount of money for scratching a horse out of a race;

(5) Without making it known to the officials, be a part owner or act as a trainer of any horse in which a driver possesses any interest;

(6) Make any bet with or on behalf of any driver, unless on a horse such driver is driving;

(7) Offer or give, except through his employer of the owner or trainer of the horse driven, a driver any present, money or other reward in connection with his driving in any race;

(8) Accept a ticket or make a bet on any horse other than the one he drives.

(B) If any person be guilty of any corrupt or fraudulent practices, in this or any other country, then such person or persons so offending shall be suspended and referred to the commission.

(C) No driver may accept payment of any kind, directly or indirectly, from any person other than the owner of the horse such driver drives in a race.

(D) Failure to report fraudulent proposal. If any person shall be approached with any offer or promise of a bribe, or a wager or with a request or suggestion for a bribe, or for any improper, corrupt or fraudulent act in relation to racing, or that any race shall be conducted otherwise than fairly and honestly, it shall be the duty of such person to report the details thereof immediately to the presiding judge. Persons failing to report such information to the judges shall be suspended and referred to the commission. *Effective: 1-1-85*

**3769-17-39. May be denied admission**

During the suspension of any licensed person, they may be denied admission to any part of the grounds. *Effective: 1-1-85*

**3769-17-40. Objections**

All objections shall be made to the judges and may be withdrawn only with permission of the judges. Objections relating to a horse engaged in a race may be made by the owners, trainers, driver-trainers of other horses engaged in the race or by the officials of the meeting. All objections, except claims of foul or interference during a race, must be written and lodged with the judges, prior to the start of the race in question. If the objection should prove to be frivolous or vexatious the judges may require payment of the expense of investigation unless the commission relieves the objector of this expense. All payments required to cover the expenses in investigation of the objection shall be treated in the same manner as fines as specified by rule 3769-17-36 of the Administrative Code. *Effective: 1-1-85*

**3769-17-41. Appeal to commission**

(A) Any licensee fined, suspended, expelled or any other penalty imposed by any judges' 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. *Effective: 1-1-85; 4-1-88; 10-6-89; 8-1-91; 10-4-92; 6-15-19*

**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. *Effective: 1-1-85; 4-3-86; 9-5-86; 4-1-88; 8-1-19*

### 3769-17-43. Disqualification, purse redistribution

(A) In the event any violation of the rules should be determined after a race has been completed and the purse has been distributed, the following shall apply:

(1) If such violation would disqualify a horse or horses, the owner or owners of said horse or horses shall forfeit the purse and any trophy or awards and the remaining horses placed accordingly;

(2) The purse shall be redistributed according to the final placings;

(3) In event the purse has been paid, the owner or owners and the disqualified horse or horses shall stand suspended until all money, trophies, and/or awards have been returned to the permit holder who shall assume the responsibility of redistributing the purse;

(4) If there are not enough non-offending horses, the remaining part of the purse shall go to the declared winner.

(B) In the event a purse is paid in error or is ordered redistributed due to an order of the commission, the owner(s) refusing to return the purse(s) and the horse(s) involved shall stand suspended until all purse monies, trophies, and/or awards have been returned to the permit holder who shall assume the responsibility for redistributing the purse.

(C) Nothing herein shall be construed to require the permit holder to pay the purses or distribute the trophies and/or awards until they have been returned.

(D) Nothing herein shall be construed to prevent the commission, in its discretion, from continuing any suspension or penalty made pursuant to this rule for such period of time the commission may determine.

(E) In the event any violation of the rules should be determined after a race has been completed and the purse has not been distributed, and an appeal has been filed staying the decision of the judges, the judges shall notify the permit holder who shall distribute the portions of the purse money which were not affected by the decision or the appeal thereof. *Effective: 1-1-85; 9-5-86; 4-1-88; 10-4-92*

### 3769-17-99. Penalties commission may impose

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this

chapter, they may fine said permit holder or the representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 1-1-85; 5-1-85*

## CHAPTER 3769-18 MEDICATION AND DRUG-RELATED RULES

3769	MEDICATION AND DRUG-RELATED RULES
18-01	Medication and testing
18-02	Trainer responsible for condition of horses
18-03	Who must be present when sample taken
18-04	Nerved horses
<del>18-05</del>	<del>Stimulation prohibited</del> Repealed
18-06	Controlled substances and/or narcotics prohibited
18-07	Possessions prohibited
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18-09	Use of drugs prohibited
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18-11	Disposal of dead horse -- autopsy
18-99	Penalties commission may impose

### 3769-18-01. Medication and Testing

(A) Definitions. The terms and words used in the following rules are defined as:

(1) "Hypodermic injection" shall mean any injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, intra-arterial injection, intra-articular injection, intrabursal injection, and intraocular (intraconjunctival) injection.

(2) "Foreign substances" shall mean all classified substances except those which exist naturally in the untreated horse at normal physiological concentrations and include all narcotics, stimulants, depressants or other drugs. The commission may, by order, establish a system of classification of prohibited foreign substances, to include methods of detection and/or regulatory thresholds thereof, recommended penalties and disciplinary measures for the presence of said substances in test samples. In determining the substances to be so classified, the commission shall give

due consideration to the uniform classification guidelines of foreign substances and recommended penalties and model rules as revised from time to time by the association of racing commissioners international inc.

(3) "Veterinarian" shall mean a licensed veterinary practitioner who treats or prescribes for a horse entered in any race subject to the jurisdiction of the commission.

(4) "State veterinarian" shall mean a veterinarian licensed in Ohio and designated as the state veterinarian by the commission.

(5) "State testing barn" shall mean the facility provided by each commercial race track and approved by the commission as the location where all horses designated for testing shall be taken by the trainer or the trainer's representative so that test samples may be obtained.

(6) "Chemist" shall mean any official racing chemist or qualified person or laboratory designated by the commission.

(7) "Test sample" shall mean any body substance including blood or urine taken from a horse under the supervision of the state veterinarian for the purpose of analysis.

(8) "Race day" shall mean the twenty-four hour period beginning at one minute after twelve a.m. and ending at twelve midnight of a day when horse racing is scheduled.

(9) "Daily program" shall mean the daily race program made available for public purchase.

(10) "Test level" shall mean the concentration of a foreign substance found in the test sample.

(11) "Racing with furosemide for the first time" shall mean the very first time a horse races with furosemide or the first time a horse races with furosemide subsequent to any thirty-day period of racing without furosemide as set forth in paragraph (B)(3)(c) of this rule.

(12) Nasogastric tube shall mean any tube which can be inserted through the nose of a horse.

(13) "Retained specimens" means all or any portion of the blood or urine specimens collected from a horse by the commission veterinarian for testing by the official laboratory.

(B) It shall be the intent of 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 through the prohibition or control of drugs, medications and substances foreign to the natural horse. In this context:

(1) Except for regulatory thresholds of such non-steroidal anti-inflammatory drugs authorized for use by order of the commission, and except for those horses eligible for the use of furosemide as permitted by paragraph (B)(1)(b) of this rule, no horse entered to race shall carry in its body on race day any prohibited foreign substance.

(a) The presence of any one of the non-steroidal anti-inflammatory drugs approved for use by the commission will be permitted at a concentration not to exceed the respective regulatory threshold established by the commission. Administration of any non-steroidal anti-inflammatory drug is prohibited within the twenty-four hours before post time for the race in which the horse is entered. The presence of more than one of the approved non-steroidal anti-inflammatory drugs in serum or plasma is prohibited. The presence of any unapproved non-steroidal anti-inflammatory drug in the post-race serum, plasma, or urine sample is also prohibited. The use of all but one of the approved non-steroidal anti-inflammatory drugs shall be discontinued at least forty-eight hours before the post time for the race in which the horse is entered; and

(b) A horse eligible for furosemide will be permitted a dose equal to a minimum of one hundred milligrams and a maximum of five hundred milligrams. Horses must be

administered furosemide, and, if prescribed and administered by a veterinarian, may be administered aminocaproic acid intravenously four hours or more prior to the post time of its race by a veterinarian who is employed by the owner, authorized agent or trainer of the horse. Furosemide will only be administered in locations approved by the judges. Furosemide may only be administered when an attendant is present. The attendant must sign documentation indicating he or she was present during the administration of furosemide. In order to be eligible for furosemide, and/or aminocaproic acid, on race day, a horse must be certified as "furosemide eligible" by the state veterinarian, another veterinarian or by the judges based upon either:

(i) A good cause showing of need for furosemide for said horse by the owner, trainer, veterinarian, or authorized agent. For purposes of this rule, prima facie evidence of a "good cause showing" shall include but not be limited to the personal observation of the state veterinarian, by scope or otherwise, of exercise-induced pulmonary hemorrhage (E.I.P.H.) in the horse; or

(ii) A statement issued in writing by a veterinarian attesting to his personal observation, by scope or otherwise, of E.I.P.H. in the horse; or

(iii) Based upon evidence the horse raced on furosemide in its preceding start, a horse shall be deemed "furosemide eligible" in writing by the judges.

(2) A written certificate issued by the judges or a written sworn statement of certification executed by the state veterinarian or another veterinarian declaring that a horse is "furosemide eligible" must be deposited with the judges at commercial tracks at least forty-eight hours prior to post time when a horse first races using furosemide. At county or independent fairs, the written certificate must be deposited with the racing secretary prior to post time of the first race on the day that horse first races using furosemide.

(3) Any horse racing with furosemide shall be governed by the following requirements in addition to those set forth in paragraph (B)(1)(b) of this rule:

(a) Except for horses which become "furosemide eligible" in accordance with paragraph (B)(1)(b)(iii) of this rule, any horse issued a certificate of furosemide eligibility pursuant to paragraph (B)(2) of this rule must first observe a ten-day waiting period from the date of issuance of said certificate prior to entry of said horse to race.

(b) Once a horse has raced with furosemide, that horse must be administered furosemide every time it races for the next ninety days.

(c) After a horse races with furosemide for at least ninety days and the owner or trainer decides the horse no longer needs furosemide, the owner or trainer may, upon written notice to the judges, cease the use of furosemide. That horse shall not race with furosemide for at least thirty days.

(d) After a horse races with furosemide for at least ninety days and is to be raced without furosemide at a commercial track, the horse must first race without furosemide in a charted qualifying or fair race. The charted line from the qualifying or fair race shall appear in the daily program when the horse first races without furosemide.

(e) Any time a veterinarian administers furosemide to a horse scheduled to race, said veterinarian shall confirm that horse is entered to race on furosemide, according to the overnight entries published by the racing secretary, and fill out and sign a form approved by the commission. Said form shall be delivered to the security officer at the main gate to the back side of commercial tracks or to the office of the racing secretary at county or independent fairs at least one hour prior to post time of the race in which the horse is

scheduled to race. For furosemide-treated horses which ship in to race, the completed furosemide form must be delivered to the security officer at the main gate to the back side of commercial tracks or to the office of the racing secretary at county or independent fairs when the furosemide-treated horse arrives. In no case shall this be less than two hours prior to post time of the race in which the horse is scheduled to race.

(f) Other than furosemide and aminocaproic acid as permitted in this rule or except in the case of emergency, no foreign substance may be administered to a horse on a race day before the conclusion of the race that horse has been entered in or until the horse has been released by the state veterinarian from the state testing barn or the retention area at a county or independent fair.

(g) Aminocaproic acid may be present in a horse's body while it is participating in a race, subject to all the provisions of agency 3769 of the Administrative Code.

(4) It shall be deemed a violation of this rule:

(a) Should a test sample taken from a horse not reported to the racing secretary as racing on furosemide and listed as such in the daily program test positive for furosemide; or

(b) Should a test sample of urine taken from a horse show a urine specific gravity less than 1.010 and a test sample of blood taken from a horse show a level of furosemide greater than one hundred nanograms per milliliter of plasma; or in the event no urine sample is collected from a horse, should a test sample of blood taken from a horse show a level of furosemide greater than one hundred nanograms per milliliter of plasma; or

(c) Should a test sample taken from a horse reported to the racing secretary as racing on furosemide and listed as such in the daily program test negative for furosemide; or

(d) Should a test sample of blood taken from a horse show a concentration of total carbon dioxide in the plasma and/or serum in excess of thirty seven millimoles per liter; or

(e) Should a test sample show a concentration of any non-steroidal anti-inflammatory drug in excess of the regulatory threshold established by the commission; or

(f) Should any licensee fail to comply with any part of the requirements of paragraphs (B)(3)(a), (B)(3)(b), (B)(3)(c), or (B)(3)(d) of this rule.

(5) On premises under the jurisdiction of the commission, no licensees other than veterinarians shall possess a nasogastric tube, equipment, including bottles designed for hypodermic administration, any foreign substance considered a prescription drug unless it is for an existing condition and is prescribed by a veterinarian, any quantity of sodium bicarbonate (baking soda) or any preparation containing more than thirty grams (one ounce) of sodium bicarbonate. When prescribed by a veterinarian, the supply of any foreign substance shall be limited by ethical practice consistent with the purposes of this rule. This rule shall not affect any prohibition of drugs, narcotics, stimulants, substances and other items listed in rules 3769-18-06, 3769-18-07 and 3769-18-09 of the Administrative Code.

(6) Notwithstanding the provisions of paragraph (B)(5) of this rule, any licensee may possess within a race track enclosure any chemical substance for personal use provided that, if the chemical substance is prohibited from being dispensed by any federal or state law without a prescription, the person is in possession of documentary evidence that a valid prescription for the chemical substance has been issued to the person and a sworn statement clearly describing the chemical substance and its intended use has been filed with the presiding judge. Under no circumstances

shall this rule be deemed to authorize the possession on the premises of any permit holder of any substance prohibited by rule 3769-18-06 of the administrative code.

(7) Notwithstanding the provisions of paragraph (B)(5) of this rule, any licensee may possess within any race track enclosure a hypodermic syringe or needle for the purpose of self administering a medically-prescribed chemical substance provided the licensee has notified the presiding judge of possession, size of the hypodermic syringe or needle and the chemical substance to be administered.

(8) Following each pari-mutuel race at a commercial track, a test sample shall be taken for the purpose of analysis from at least one participating horse designated by the judges. In addition, judges may designate by lot or otherwise one or more horses from which a test sample shall be taken for the purpose of analysis. The state veterinarian, the executive director or any commission member may also order the collection of a test sample from any horse for the purpose of analysis.

(a) At all county and independent fairs, judges may order test samples be taken from horses for the purpose of analysis. Judges may select horses by lot or otherwise.

(9) The commission shall appoint, at its cost, a veterinarian to take test samples or supervise the collection of them, approve a laboratory for test sample analysis and require the analysis of all test samples collected. The cost of analysis of the blood and urine samples taken from one horse in each race shall be deducted from the purse for that race and forwarded to the commission. The commission shall determine the average cost of a test sample analysis during the prior calendar year and adjust the cost deduction annually to be effective on July first of each fiscal year. The cost of analysis of all other samples shall be paid by the commission.

At each commercial race track the permit holder shall provide, at its cost and subject to the approval of the state veterinarian or commission, an adequate number of assistants, as determined by the commission, to aid in securing such test samples. Under the supervision of the state veterinarian, assistants shall have free access to the state testing barn. The commission may also appoint, at its cost, veterinarians or other persons to supervise the practice of veterinary medicine at all premises under the jurisdiction of the commission and all activities involving the securing, handling and analysis of test samples.

No veterinarian appointed by the commission or employed by a permit holder shall be permitted to treat or prescribe for any horse on the grounds, except in case of emergency, when a full and complete report shall be made to the judges. No licensee shall employ or compensate a veterinarian or the assistants of a veterinarian appointed by the commission or hired by a permit holder.

(10) A finding by the chemist that a foreign substance other than a test level of furosemide, or any non-steroidal anti-inflammatory drug authorized for use by order of the commission, as permitted in paragraph (B)(1)(a) of this rule, is present in the urine or blood sample shall be considered a positive test and a violation of this rule. Also, it shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race and that the trainer and his agents responsible for the care and custody of the horse have been negligent in the handling or care of the horse.

(11) Every horse which suffers a breakdown while training or racing and is destroyed and every horse which expires under suspicious or unusual circumstances while under the jurisdiction of the commission may be required by the state veterinarian to undergo a post-mortem examination at a time and place determined by the state

veterinarian in an attempt to ascertain the injury or disease which resulted in euthanasia or caused death.

(a) The commission shall pay all costs involved in a post-mortem examination conducted by a veterinarian approved by the commission.

(b) A written record of all information normally contained in a post-mortem report, and other information specifically requested, shall be provided to the state veterinarian.

(c) Test samples specified by the state veterinarian shall be obtained from the carcass upon which the post-mortem examination is conducted, sent to a laboratory approved by the commission and analyzed for foreign substances, natural substances at abnormal levels, etiological agents and pathological lesions. Test samples may be procured prior to euthanasia.

(12) The commission has the authority to direct the approved laboratory to retain and preserve, by freezing, any samples for future analysis.

(13) Should test sample analysis result in a violation of paragraphs (B)(1), (B)(1)(b), (B)(4)(b), (B)(4)(c), or (B)(4)(d) of this rule, the horse shall be disqualified in accordance with rule 3769-17-43 of the Administrative Code and any licensee found in violation is subject to penalties contained in paragraph (B)(15) of this rule.

In situations where penalties include a forfeiture of the purse and any trophy or award, until the purse, as well as any trophy or award, is returned, the owner and trainer of the horse shall stand suspended. The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no foreign substance has been administered to the horse earning the purse money.

No redistribution of such purse shall be required until a permit holder is refunded the purse money. The horse designated the winner shall be awarded any purse money following the disqualification if there are not enough non-offending horses to share such purse.

When required by the penalty section of this rule, judges shall disqualify the horse from which the positive test sample was obtained and advance finish positions of the remaining horses accordingly. The commission may continue any suspension made pursuant to the above provision for such period of time as it may determine.

(14) It shall be the responsibility of the trainer of the winning horse or any other horse from which the judges order a test sample to be taken, to see that horse is taken directly after the race to the state testing barn at a commercial track or to the retention area at a county and independent.

(15) The judges may fine any licensee who violates paragraphs (B)(1)(b), (B)(3)(a), (B)(3)(b), (B)(3)(c), (B)(4)(a), (B)(4)(b), (B)(4)(c), (B)(4)(d), (B)(4)(f) and/or (B)(5) of this rule an amount not in excess of one thousand dollars, suspend such licensee for a period not to exceed one year and refer the matter to the commission for its consideration. The penalties for the violation of paragraph (B)(1) of this rule shall be determined in accordance with the provisions of paragraph (B)(16) of this rule. The penalties for violation of paragraphs (B)(1)(a) and (B)(4)(e) of this rule are identified in paragraph (B)(19) of this rule. Judges may fine any licensee who violates any other requirements in paragraph (B) of this rule an amount not in excess of one thousand dollars, suspend such licensee for a period not to exceed one year and refer the matter to the commission for further consideration.

(16) Upon finding a violation of paragraph (B)(1) of this rule, and subject to the provisions of rule 3769-17-43 of the Administrative Code, the horse shall be disqualified.

Judges shall consider the classification level of the violation as established by the system of classification of prohibited foreign substances adopted by the commission and impose penalties and disciplinary measures consistent with the recommendations contained therein. If a majority of judges determine that mitigating circumstances require imposition of a lesser penalty, they may impose the lesser penalty. If a majority of judges wish to impose a penalty in excess of the authority granted them, they shall impose the maximum penalty authorized and refer the matter to the commission with a specific recommendation for further action.

(17) When imposing penalties for violations of paragraphs (B)(1) to (B)(14) of this rule, judges and the commission may consider, in addition to the considerations outlined in paragraph (B)(16), the following factors:

(a) The accessibility of the drug, considering whether it can be purchased over the counter, only with a prescription, only with a license for controlled substances, or cannot be purchased in this country;

(b) The experience of the violator;

(c) Whether the violator has ever been the subject of a medication ruling in any racing jurisdiction;

(d) What action, if any, was taken by the licensee to avoid the violation.

Judges and the commission shall not be required to articulate any of the foregoing in any ruling issued. Ignorance of the rules shall not be deemed a mitigating factor.

(18) In the event the violation that occurs is solely a violation of an excessive test level of a non-steroidal anti-inflammatory drug pursuant to paragraphs (B)(1)(a) and (B)(4)(e) of this rule, the penalties imposed by the judges shall be as follows:

(a) For a first violation, upon receipt of a preliminary report of a positive test finding by the commission laboratory, the judges shall issue an oral notice of said violation to the licensee. All preliminary reports of violation of paragraphs (B)(1)(a) and (B)(4)(e) of this rule are subject to verification by confirmatory tests by the commission laboratory.

(b) Upon receipt of a preliminary report by the commission laboratory that a licensee has violated paragraphs (B)(1)(a) and (B)(4)(e) of this rule a second time, within one year the judges shall issue an oral notice of said violation to the licensee. Should confirmatory tests verify the validity of such preliminary report the judges shall fine said licensee one hundred dollars.

(c) Upon receipt of a preliminary report by the commission laboratory that a licensee has violated paragraphs (B)(1)(a) and (B)(4)(e) of this rule more than twice, within one year the judges shall issue an oral notice of said violation to the licensee. Should confirmatory tests verify the validity of such preliminary report the judges may fine the licensee up to one thousand dollars and shall refer the matter to the commission for its consideration.

(d) In addition to the penalties set forth in paragraphs (B)(18)(a), (B)(18)(b), and (B)(18)(c) of this rule, the judges may consider the test levels reported by the commission laboratory in determining whether the licensee has violated paragraph (B)(3)(f) of this rule.

(e) In addition to the penalties set forth in paragraphs (B)(18)(a), (B)(18)(b), and (B)(18)(c) of this rule, the judges may consider the licensee's history of violations of paragraphs (B)(1)(a) and (B)(4)(e) of this rule in determining whether to cite the licensee for violation of other rules of racing, including but not limited to paragraphs (A)(4) and (A)(10) of rule 3769-12-26 of the Ohio Administrative Code.

(19) (a) If a test sample of blood from a horse shows a concentration of total carbon dioxide in excess of the level authorized in paragraph (B)(4)(d) of this rule, the owner or trainer of that horse contending that such level is physiologically normal for that specific horse may request the horse be held in approved quarantine at a location designated by the commission. Such quarantine shall be in accordance with policies and procedures adopted by the commission and shall be for a period determined by the executive director or the judges, but not greater than five days, and is at the sole expense of the owner or trainer requesting the quarantine. During the quarantine the horse shall be retested periodically but it shall not be permitted to race. Removal of a horse from quarantine without the permission of the judges shall constitute a waiver of any claim of normally high levels for that specific horse. A request for quarantine shall be made within seventy-two hours of notification of violation of this rule.

(b) Subsequent to the horse being quarantined and retested, if the commission is satisfied on the basis of clear and convincing evidence derived from the testing of the horse's blood that such horse has physiologically normal levels in excess of the level authorized in paragraph (B)(4)(d) of this rule then no disciplinary action will be taken against the owner or trainer of that horse. In addition, notwithstanding the provisions of paragraph (B)(19)(a) of this rule, the commission shall bear the expense of quarantine in such cases.

(20) The commission, on its own motion or in addition to any penalty assessed by the judges, may revoke, suspend or refuse to grant any commission license held or applied for by any person who violates this rule.

(C) Notice of the use of medication:

(1) In order to inform the public of those horses racing with permitted medication, it shall be the responsibility of the permit holders to indicate in daily programs any horse racing with furosemide and if a horse is racing with furosemide for the first time.

(2) When entering a horse, it shall be the responsibility of the trainer to indicate on the entry form that he intends to race the horse with furosemide and to indicate if the horse is racing with furosemide for the first time, as defined in this rule. It shall be the responsibility of the racing secretary to check each daily program to make sure the use of furosemide reported to his office for each horse is correctly shown.

(3) When an entry is made by telephone the trainer shall provide the information otherwise required on a written entry and obtain the name of the person who accepts the entry. The person who accepts a telephone entry shall obtain the name of the person making the entry.

(4) Judges may fine any licensee who violates paragraph (C) of this rule an amount not in excess of one thousand dollars, suspend the licensee for a period not to exceed one year and refer the matter to the commission for further consideration.

(D) Any horse known to have bled externally the first time from its nostrils during a race or workout may not be entered or raced for a period of ten days without prior approval by the state veterinarian. In the event a horse bleeds a second time within one year of when the horse bled the first time, such horse shall be placed on the veterinarian's list and prohibited from racing for a period of thirty days. In the event a horse bleeds a third time within one year of when the horse bled the first time, such horse shall be placed on the veterinarian's list and prohibited from racing a minimum of ninety days. The horse may thereafter be removed from the veterinarian's list by the state veterinarian after a satisfactory workout witnessed by the

state veterinarian. In the event a horse bleeds a fourth time within one year of when the horse bled the first time, such horse shall thereafter be prohibited from racing in this state. Judges shall maintain a list of all horses they know have bled from their nostrils.

(E) Veterinarians' report:

(1) Any veterinarian who treats a racing horse or administers, prescribes, provides or sells any medication or foreign substance for use by a racing horse shall keep a complete written record of this event.

(2) Each record shall contain the name of the horse, its owner or trainer, dates and times of treatments, any tentative diagnosis, and the name, doses and method of administration of the medications or foreign substances administered or prescribed.

(3) Each record shall remain confidential and be retained by the veterinarian unless a disclosure of its content is requested by the commission or its presiding judge for use in a proceeding resulting from a positive test sample. Upon request, the veterinarian shall provide each record to the commission or presiding judge within twenty-four hours.

(4) Veterinarians may use standard abbreviations for any medications administered or prescribed.

(5) Except in an emergency, it shall be the duty of a veterinarian to inquire of the owner, trainer or their representative, prior to treating any horse, whether the horse is or will be entered to race during the period of time any medication administered by the veterinarian may affect any test sample and result in a positive finding. If such shall be the case, it is the veterinarian's duty to advise the owner, trainer or their representative of this.

If the owner or trainer certifies in writing to the veterinarian that the horse to be treated will not race within fifteen days of the time of treatment, then said veterinarian shall not be required to complete the report pursuant to paragraph (E)(1) of this rule.

A veterinarian may be held wholly or partially responsible for such positive finding if the veterinarian failed to perform the duties of inquiry and advice as set forth in this rule.

(6) The judges may fine any licensee who violates paragraph (E) of this rule an amount not in excess of one thousand dollars, suspend the licensee for a period not to exceed one year and refer the matter to the commission for further consideration. *Effective: 1-1-85; 4-1-88; 3-16-90; 7-1-90; 8-1-91; 6-8-92; 7-1-99; 3-6-00; 1-1-02; 6-7-02; 1-1-03; 2-1-05; 1-8-07; 2-1-11*

### **3769-18-02. Trainer responsible for condition of horses**

(A) The trainer shall be the absolute insurer of, and responsible for, the condition of the horses entered in a race, regardless of the acts of third parties. Should the chemical or other analysis of urine or blood specimens prove positive, showing the presence of any foreign substance not permitted by rule 3769-18-01 of the Administrative Code, the trainer of the horse, the foreman in charge of the horse, the groom, and any other person shown to have had the care or attendance of the horse may, in the discretion of the commission, be subjected to penalties provided in paragraph (B) of this rule. Permit holders, other than county or independent fairs, shall provide and maintain a state testing area to include a group of stalls for the accommodation of the horses as are designated in rule 3769-18-01 of the Administrative Code, and such horses shall remain in the state testing barn area until required specimens have been obtained by the veterinarian and until he shall have released

said horses. All persons shall be excluded from said area except owner, trainers, or their representatives, horses from which the specimens are taken, the authorized veterinarian and his assistants and any representative of the commission.

(B) The judges may fine any licensee who violates this rule an amount not in excess of one thousand dollars and/or suspend any commission license held by such licensee for a period not to exceed one year and/or refer the matter to the commission for its consideration. The commission may on its own motion, or in addition to any penalty assessed by judges, revoke or suspend any commission license held by any person who violates this rule and/or rule off and/or refuse to grant a license to any person who violates this rule. *Effective: 1-1-85; 1-1-91; 2-6-99;*

### **3769-18-03. Who must be present when sample is taken**

(A) 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. 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.

(B) No owner or trainer who is not present either in person or by representative when a test sample is taken from his horse will be heard to claim at any future time that the test sample was not the one taken from his horse. *Effective: 1-1-85; 4-1-99*

### **3769-18-04. Nerved horses**

(A) All horses that have been nerved shall be so designated onto their electronic eligibility and all claim authorization forms for such horses. It is the responsibility of the owner of the horse at the time the horse is nerved to see that this information is placed on the registration certificate and the electronic eligibility. All horses that have been nerved prior to the adoption of this rule must also be certified and it will be the responsibility of the owner or the trainer of such horse to see that such information is carried on the registration certificate. No trainer or owner will be permitted to enter or start a horse that is high-nerved. It shall be the responsibility of the owner and/or trainer of a horse that has been low-nerved to post on the bulletin board in the racing office at each track where the horse competes the fact that the horse has been low-nerved, and it is the responsibility of each track to provide a space in the racing office where the fact of nerving can be posted in accordance with this rule. Where these requirements have been met, low-nerved horses will be permitted to start.

(B) Only the palmar (posterior) digital neurectomy (low nerving) by surgical or other physical (example: freezing) or chemical (example: injecting alcohol or snake venom) means will be permitted in horses to be raced. Only the posterior digital nerve and middle branches to the palmar (posterior/back) part of the foot may be desensitized. This procedure must be done below the fetlock. The dorsal (anterior/front) branches must be preserved so the horse has feeling at the coronary band at the front of the foot on both sides of the midline. Lack of feeling at the coronary band on the front of the foot is prima facie evidence that a

horse has been nerved in contravention of this rule. Incisions over nerves at or above the fetlock may be evidence that the horse has been high-nerved, even if partial or complete feeling is present at the front of the coronary band of the foot. In horses racing or to be raced, no "high nerving" (at or above the fetlock, including volar, palmar or plantar nerves) is permitted by any means: surgical, physical, including but not limited to injection of alcohol or snake venom. Any offending party may be ruled off or otherwise penalized under the provisions of rule 3769-18-99 of the Administrative Code. *Effective: 5-7-01; 4-1-88; 9-5-86; 1-1-85*

### **3769-18-05. Stimulation prohibited**

Repealed. *Effective: 1-1-85; 4-1-88; 7-1-99*

### **3769-18-06. Controlled substances & narcotics prohibited**

Any person licensed by the Ohio state racing commission who shall be found with any controlled substance as defined by the Ohio state board of pharmacy or narcotic drug in his/her possession while on the premises of any permit holder shall be fined and/or suspended by the judges in accordance with rule 3769-18-99 of the Administrative Code. *Effective: 1-1-85; 3-19-87*

### **3769-18-07. Possessions prohibited**

(A) No person shall have in his/her possession on the premises of a permit holder any 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. Any offending party may be ruled off. This rule shall not be construed to apply to a veterinary surgeon licensed by the commission.

(B) No veterinarian shall leave a container of any prohibited drug on the premises of a permit holder nor shall he leave or dispose of hypodermic syringes or hypodermic needles or any other instrument which may be used for injection on the premises of the permit holder whether used or unused. Any violation of this rule shall be subject to the penalties as outlined in rule 3769-8-99 of the Administrative Code. *Effective 1-1-85; 10-4-92; 2-6-99; 8-1-09*

### **3769-18-08. Anesthetics prohibited**

Repealed. *Effective: 1-1-85; 7-1-99*

### **3769-18-09. Use of drugs prohibited**

(A) In order to ensure the public safety and protect the integrity of horse racing in the state of Ohio, the commission intends to regulate the use of any drug of abuse, as governed by division (A) of section 3719.011 of the Revised Code, by any licensee who is responsible for the conduct of a race or whose duties include the training, exercising, driving or caring for a horse. It shall also include all track employees who, while at work operate mechanical devices of any type which could cause injury to the operator of such device or to others. Mechanical devices include but are not limited to motor vehicles, tractors and mowers.

(B) For purposes of this rule, "licensee" means any person licensed by the commission whose duties include any of the following: training, exercising, driving or caring for a horse or any licensed racing official who is involved in the conduct of a race, including but not limited to:

- (1) Assistant starter;
- (2) Assistant trainer;
- (3) Dentist;
- (4) Driver;
- (5) Driver-Trainer;
- (6) Groom;
- (7) Horseshoer;
- (8) Judge;
- (9) Maintenance and track conditioning employees;
- (10) Any official whose appointment must be approved by the Ohio state racing commission as identified in rule 3769-12-10 of the Administrative Code;
- (11) Owner;
- (12) Paddock judge;
- (13) Starter;
- (14) Starting gate driver;
- (15) Trainer;
- (16) Veterinarian;
- (17) Veterinarian's assistant.

(C) The personal use of any drug of abuse, as defined in division (A) of section 3719.011 of the Revised Code, is prohibited without a legal prescription. Acting with reasonable cause or through random selection by lottery, the presiding judge, secretary of the commission, any member of commission, any investigator employed by the commission, or the chief of security at the track may direct any licensee, as defined in paragraph (B) of this rule, to submit a sample of their urine to the track physician or other representative of the commission. The urine sample shall be provided in the manner prescribed by the commission. Any random selection by lottery may be witnessed by a representative of the licensee group involved. The commission may alter the number of names to be drawn each day and for each race.

(D) Such samples or tests pursuant to the requirements in paragraph (C) of this rule may be requested at any time a licensee is acting within the scope of his or her license while on the premises of an Ohio state racing commission permit holder. When a licensee has been given notice by the presiding judge, any member of the commission, the secretary of the commission, commission investigator or inspector or the chief of security at the race track, it shall be considered a failure and/or refusal if the licensee does not provide a valid urine sample prior to the end of the last race on that day.

(E) Failure or refusal of any licensee to supply a valid urine sample when requested to do so by one or more of the persons designated in paragraph (C) of this rule shall subject the licensee to an immediate fine of two hundred fifty dollars and a suspension of sixty days for a first offense. A second and all subsequent failures or refusals to provide a requested urine sample shall subject the individual to a fine of one thousand dollars and a suspension of one year, and in addition, the individual shall be referred to the Ohio state racing commission for any further action deemed necessary.

(F) In the event that the urine analysis results should disclose the presence of any drug of abuse prohibited in paragraph (C) of this rule, the following action shall be taken:

(1) For a first offense, an official ruling will be issued notifying the licensee that his or her sample or test was positive for a prohibited substance and that he or she will be subject to future mandatory drug testing. In addition, upon the delivery of such official ruling, the individual shall be immediately suspended for ten days and fined two hundred fifty dollars.

(2) For a second offense, an official ruling will be issued indicating the licensee has tested positive for a

prohibited substance on two occasions. Upon delivery of such official ruling, said individual's license shall be immediately suspended for a period of twenty days and the licensee shall be fined the sum of two hundred fifty dollars. The licensee will be prohibited from participating in racing in the state of Ohio until he or she presents the presiding judge with proof that he or she has voluntarily enrolled in a rehabilitation program approved by the commission, and a report from said program indicating the licensee's satisfactory attendance and participation in the program.

(3) For a third or subsequent offense, the licensee shall immediately be fined one thousand dollars and suspended for one year. In addition, his or her case will be referred to the commission for further action. The licensee shall also be required to provide proof that he or she has satisfactorily completed a commission approved substance abuse program prior to the commission considering his or her application for any type of a license.

(G) In the event any licensee subject to this rule is taking a substance pursuant to a valid prescription on order from a licensed physician or dentist, it shall be that licensee's responsibility to give written notice of same to the presiding judge prior to participating in any racing activities. The written notice shall contain the following:

- (1) Name of the substance;
- (2) The quantity and dosage of the substance prescribed.

(H) Any work product resulting from an investigation pursuant to this rule shall be a confidential law enforcement investigatory record as defined in section 149.43 of the Revised Code.

(I) All urine analyses shall be conducted at the expense of the commission by the Ohio state university testing laboratory or other testing laboratory approved by the commission.

(J) Any licensee receiving an official ruling alleging a violation of this rule may request a hearing in accordance with the provisions of Chapter 119. of the Revised Code and rule 3769-17-41 of the Administrative Code.

(K) Information concerning positive test results will be released only in accordance with section 149.43, of the Revised Code, the public records statute. *Effective: 0-15-85; 2-1-86; 3-19-87; 4-1-88; 9-16-88; 10-6-89; 8-1-91; 1-1-92; 8-1-94; 2-6-99*

### **3769-18-10. Trainer and veterinarian responsible for reporting notice of disease or death**

(A) The trainer shall be absolutely responsible for reporting to the judges and/or to the commission veterinarian the death of any horse in the care of said trainer, which horse is currently stabled on the premises of the permit holder. Said report must be filed in writing on forms furnished by the commission and delivered to the judges and/or the commission veterinarian within twenty-four hours of the death of the horse.

(B) The trainer shall be absolutely responsible for reporting to the judges and/or to the commission veterinarian a notice in writing on forms furnished by the commission, the name of any veterinarian who treats a horse in the care of said trainer, which horse is currently stabled on the premises of the permit holder, when said treatment is diagnosed as being for a contagious or infectious disease.

(C) It shall be the responsibility of both the trainer and any veterinarian who has reason to suspect the existence of a contagious or infectious disease in any horse to give notice, in writing, on forms furnished by the commission, to the commission, or to the judges when said horse is stabled

on the premises of a permit holder. Said notice shall be given to the commission veterinarian or the judges as quickly as possible, but in no event shall the time period be more than seventy-two hours after said veterinarian has examined said horse and/or treated said horse for such disease.

(D) For purposes of this rule "contagious or infectious disease" means any disease which is capable of transmission by any means from a carrier animal to a human or to any other animal. *Effective: 5-5-86; 10-4-92*

**3769-18-11. Disposal of dead horse; autopsy**

In the event that a horse should die on the premises of a permit holder or elsewhere, the commission veterinarian or the state judge may order an autopsy to be performed on said horse for the purpose of ascertaining the cause of death. In the event that such autopsy is ordered, the cost thereof shall be borne by the commission.

In the event that a horse should die on the premises of a permit holder, said horse may not be removed from the premises without first obtaining permission to remove the horse, either from the commission veterinarian or the state judge. *Effective: 5-5-86; 10-4-92*

**3769-18-12 Independent analysis of official specimen**

(A) The commission veterinarian shall, whenever physically possible, collect a minimum of fifty milliliters of urine and a minimum of thirty milliliters of blood specimens from each horse selected for testing by the judges.

(1) The official laboratory shall retain all portions of each specimen in secure, limited access, frozen storage at a site approved by the commission for the time period required by this section;

(2) If the results of tests on a specimen are negative, the official laboratory may discard all portions of said specimen;

(3) If the results of tests on a specimen are positive, the official laboratory shall retain all portions of said specimen until the matter has been finally adjudicated or until directed to forward the specimen or a portion thereof to another laboratory for independent analysis;

(4) The trainer and/or owner shall not be entitled to a retained specimen in those instances where the official laboratory deems it necessary to consume the entirety of an official specimen for official laboratory testing purposes.

(B) The results of all tests performed by the official laboratory shall remain confidential until the time of the judges' hearing, if any, and shall be communicated only to the executive director of the commission, the presiding judge, and the trainer. The trainer shall be responsible for notifying the owner of a horse of a positive test result as reported by the official laboratory.

(1) The trainer or owner of a horse for which a positive test result was reported may request that the retained specimen or a portion thereof be retested in accordance with this section. A commission approved independent laboratory or the official laboratory must perform the retest;

(2) Approved independent laboratories are identified on a list maintained by the commission;

(3) Approved independent laboratories must establish reasonable fees for testing that may include the costs of testing negative control specimens if requested by the trainer or owner;

(4) The request for retesting shall be in writing and shall be delivered to the judges not more than forty-eight hours after the issuance of the ruling of the judges. Notice of a positive test result shall be communicated in writing to the

trainer and may also be communicated orally to the trainer. Failure to request retesting of the retained specimen within forty-eight hours of issuance of the ruling of the judges shall constitute a waiver of this right.

(5) The laboratory selected by the trainer or owner for independent testing of the retained specimen shall be contacted by a representative of the commission to request acceptance of the specimen for testing;

(6) The owner or trainer is entitled to be present at the retest if they have requested retesting of the retained specimen by the official laboratory;

(7) The results of testing by an approved independent laboratory shall be furnished to the commission and may be introduced as evidence in any hearing;

(8) If a retained specimen is sent to an independent laboratory for retesting, the official laboratory shall arrange for shipment of the specimen in a manner that ensures the integrity of the sample. Costs of shipping and handling will be paid by the owner or trainer requesting the retest;

(9) The identity of the drug or drug metabolite(s) identified by the official laboratory shall be communicated to the independent laboratory in writing;

(10) Should the independent laboratory determine that there is insufficient sample volume to retest the sample, or if an act of god, power failure, accident, labor strike or any other event beyond the control of the commission or its representatives prevents the retained sample from being tested, then the results of tests performed by the official laboratory shall be prima facie evidence of the presence of the substance(s) identified by the official laboratory.

(11) The trainer or owner may request that negative control samples be tested with the retained sample. The relative identities of the negative control samples and the retained sample shall be known only to the official laboratory.

(C) The independent laboratory shall send a confidential written report of the results of its tests to the commission, which in turn shall send a confidential report to the trainer and owner forthwith.

(1) No action shall be taken against the trainer or owner if the results of the retesting are negative.

(2) Should the results of retesting prove negative, the owner or trainer shall be reimbursed by the commission for all costs of retesting. *Effective: 3-6-00*

**3769-18-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the judges from doing so, the judges, upon the concurrence of two such officials, may fine a licensee an amount not in excess of the amount permitted by section 3769.091 of the Revised Code and/or suspend licenses, upon the concurrence of two such officials, for a period not to exceed the length of time permitted by section 3769.091 of the Revised Code and/or refer the licensee to the commission for further action.

Any fine or suspension may be appealed to the commission. Such appeal shall stay the fine or suspension until further action by the commission.

(B) In addition to any other penalty provided, or in the event no penalty has been provided, the commission, may, upon finding a licensee has violated a rule of this chapter, fine the licensee an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any Ohio state racing commission license held by the licensee and/or rule off any such licensee from all Ohio race tracks.

(C) Should the commission find a permit holder, or a representative of the permit holder has violated a rule in this chapter, they may fine said permit holder or the

representative of the permit holder an amount not in excess of the amount prescribed by law and/or deny, suspend or revoke any license and/or permit held by said permit holder or representative of the permit holder and/or rule off any such permit holder's representative.

(D) Each day during which any violation of a rule in this chapter continues to occur shall be considered a separate offense and any person and/or permit holder continuing to violate said rule or rules may be penalized separately for each day the violation occurs.

(E) Any person who violates any provisions of the Horse Racing Act or any of the Ohio rules of racing for which no penalty is otherwise provided, may be denied a license under such rules. A licensee under such rules may be fined, may have his/her license suspended or revoked or may be ruled off. Any permit holder who violates any of the provisions of the Horse Racing Act or any of the Ohio rules of racing for which a penalty is not otherwise provided, may have the permit suspended or revoked, or may be denied a permit upon subsequent application therefor. *Effective: 1-1-85; 5-1-85*

**CHAPTER 3769-20  
RACETRACK  
RELOCATION  
RULES**

<b>3769</b>	<b>RACETRACK RELOCATION RULES</b>
20-01	General definitions
20-02	Application to relocate a race track facility
20-03	Facility Requirements

**3769-20-01 General definitions.**

(A) "Capital Investment" means cost related to demolition, engineering, architecture, design, site preparation, construction, infrastructure improvements, land acquisitions, furniture, fixtures, equipment, insurance related to construction, capitalized interest and other financing costs, leasehold improvements, video lottery terminal acquisition and related technology, surveillance and security equipment, and such other costs as approved by the director which are usual and customary for the industry.

(B) "Commission" and "racing commission" mean the racing commission under Chapter 3769. of the Revised Code.

(C) "Director" means the director of the state lottery commission under Chapter 3770. of the Revised Code.

(D) "Permit Holder" means a corporation, trust, partnership, limited partnership, association, person or other group of persons who or which has been granted a permit to conduct a horse racing meeting under Chapter 3769. of the Revised Code.

(E) "Temporary Facility" is a location where a permit holder who conducts live racing and simulcasting according to the requirements of Chapter 3769. of the Revised Code will simulcast racing according to the requirements set forth in section 3769.089 of the Revised Code. The permit holder will simulcast all horse races in this state and horse racing conducted at facilities located outside this state made available on each day that video lottery games are operated.

(F) "Video Lottery" means the operation of video lottery games through the use of video lottery terminals, central monitoring systems, control systems,

communications processes and/or associated equipment and activities connected and/or associated therewith.

(G) "Video Lottery Game" means any game authorized by the lottery commission that is played on a video lottery terminal.

(H) "Video Lottery Sales Agent" means a permit holder that conducts live racing in accordance with Chapter 3769. of the Revised Code, and that is licensed by the director to sell video lottery games through video lottery terminals, and who continues to be a permit holder while authorized by the director to conduct video lottery games.

(I) "Video Lottery Terminal or VLT" is a device used by a video lottery sales agent in connection with the sale of video lottery games.

(J) "Incremental Economic Benefits" means demonstrating a substantial positive gain in:

(1) Job creation;

(2) Capital investment in a new facility;

(3) Video lottery terminal revenue to support school districts; and

(4) Local tax base.

(K) "Race Track" means any place, track, or enclosure where a permit holder conducts live horse racing and simulcasting for profit at a race meeting under Chapter 3769. of the Revised Code. "Race Track" includes facilities or premises contiguous to those places, tracks, or enclosures. *Effective: 2/22/13*

**3769-20-02 Application to relocate a race track facility.**

(A) A permit holder eligible to become a video lottery sales agent may apply in a manner as determined by the commission to relocate its race track and all racing permits.

(B) The application to relocate a race track shall be made in the manner prescribed by the racing commission and may include information required by rules 3769-2-08 or 3769-12-08 of the Administrative Code. The application shall also:

(1) Indicate whether or not a temporary facility will be used to conduct business at the new location;

(2) Identify the location for the new track by city or township, county, address and zip code;

(3) Disclose the incremental economic benefits to the state in a certificate of compliance that shall be a part of the application; and

(4) Provide other information as required by the racing commission.

(C) If a permit holder's current race track is located on property owned by a political subdivision and the application indicates that the new location is twenty miles or less from its current location, the racing commission shall calculate the distance and provide its calculation to the applicant. If the permit holder's calculation differs significantly from the racing commissioner's calculation of the distance, then the racing commission's determination of the distance between the two locations will be controlling.

(D) An application to relocate a race track facility must be submitted to the racing commission on or before June 11, 2014.

(E) The relocation fee to relocate a race track shall be as follows:

(1) Seventy-five million dollars to transfer and relocate the existing permit(s) and track located at 3664 Grant Avenue, Grove City, Ohio known as Beulah Park to 700 North Canfield Niles Road, Youngstown, Ohio;

(2) Seventy-five million dollars to transfer and relocate the existing permit(s) and track located at 5700 Telegraph Road, Toledo, Ohio known as Raceway Park to 3100 Needmore Road, Dayton, Ohio;

(3) Twenty-five million dollars to transfer and relocate the existing permit(s) and track located at 21501 Emery Road, Cleveland, Ohio known as Thistledown to a location in the Akron/Canton area within a twelve mile radius of the following GPS coordinates: +40o 55' 20.00", -81o 26' 20.00"; and

(4) A permit holder who makes application for a new location and is currently on property owned by a political subdivision and is twenty miles or less from its current location shall not pay a fee. If the permit holder's calculation differs significantly from the racing commission's calculation of the distance, then the racing commission's determination of the distance between the two locations will be controlling.

(F) Relocation fees shall be subject to the following conditions as applicable:

(1) The first installment of the relocation fee shall be in the amount of seven million five hundred thousand dollars and shall be paid on the first day of video lottery terminal game play at a relocated racetrack in its new location. The remaining balance shall be paid in eighteen equal semi-annual installments of four million eight hundred and six thousand forty six dollars beginning one year after the first day of video lottery terminal game play at a relocated racetrack in its new location and then every six months thereafter. Installments shall continue until the total seventy-five million dollar relocation fee is collected.

(2) All relocations fees shall be paid to the racing commission and shall be deposited in the racetrack relocation fund. *Effective: 2/22/13; 9-24-15*

### **3769-20-03 Facility requirements.**

(A) Capital investment plan. A master facility plan shall be submitted for review and approval by the racing commission and the director of the lottery. The plan shall propose capital investments totaling a minimum of one-hundred fifty million dollars for the racing and video lottery terminal facilities in categories as defined in paragraph (A) of rule 3769-20-01 of the Administrative Code.

(1) Up to twenty-five million dollars of the required capital investment may be allocated for existing land and facilities.

(2) Capital investments made in a temporary facility that becomes part of the permanent master facility plan may be considered for inclusion in the minimum capital investment requirement.

(B) Schedule. The capital investment shall be completed within three years from issuance of a video lottery sales agent license.

(C) Reporting. The video lottery sales agent shall provide status reports in a format and according to a schedule established by the racing commission and the lottery director. The video lottery sale agent shall maintain supporting records detailing actual expenditures and shall make those records available for inspection.

(D) Facility requirements. A permit holder who has been licensed as a video lottery sales agent shall submit a master facility plan that shall include the following:

(1) The facility design must comply with applicable building and safety codes and should be accessible to individuals with disabilities in accordance with section 3770.03(B)(1) of the Revised Code.

(2) The facility plan shall identify proposed improvements in the following areas, if applicable:

- (a) Track length, width, design or materials;
- (b) Public facility components, including access and sanitary facilities;
- (c) Grandstand components, including betting areas and concessions;

(d) Clubhouse components, including betting areas, restaurants and offices;

(e) Facilities for licensees and race horses in barn and stable area;

(f) Other buildings for driver, jockey and groom quarters, and recreation halls;

(g) Security plans for the racing facility; and

(h) All other components set forth in Chapter 3769. or 3770. of the Revised Code or any administrative rules adopted thereunder.

(E) Temporary facility requirements. A permit holder may submit a proposal for review and approval of the racing commission and the lottery director to operate at a temporary facility. The proposal shall meet the following requirements:

(1) The temporary facility shall comply with the requirements for a permanent facility set forth in paragraph (D) of this rule;

(2) A permit holder may request a deviation, in writing, from the facility plan requirements in paragraph (E)(1) of this rule. No deviation may be undertaken without the express approval of the racing commission and the lottery director; and

(3) The minimum capital investment in a temporary facility shall total, at least, five million dollars, exclusive of the cost of acquisition of video lottery terminals.

(F) Facility relocation. The permit holder may submit an application to the racing commission outlining a proposal for the relocation of a facility as provided in Section 3 of the Amended Substitute House Bill 386, as enacted by the 129th General Assembly. The application must be submitted by June 11, 2014, and shall contain a facility plan meeting the requirements set forth in paragraphs (D) or (E) of this rule and must seek transfer of all racing permits.

(G) Relocation costs. If the racing commission approves a temporary facility, the permit holder shall be responsible for all costs associated with the transition from the temporary facility to a permanent facility including the cost of relocating the central monitoring system and components.

(H) A permit holder also licensed as a video lottery sales agent shall comply with all of the facility requirements set forth in chapter 3770:2-12 of the Administrative Code.

(I) Simulcasting of races shall commence on or before the date that the temporary facility begins video lottery sales. *Effective: 2/22/13*