

**CHAPTER 3769-1.  
GENERAL DEFINITIONS**

**3769-1-01. General definitions**

The definitions hereinafter set forth are parts of the rules of racing prescribed by the Ohio state racing commission, hereinafter sometimes referred to as the "commission." Such rules are prescribed pursuant to Chapter 3769. of the Revised Code hereinafter referred to as the Horse racing [sic] Act. *Effective 1-1-85*

**3769-1-02. 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*

**3769-1-03. Racing hours**

A race meeting or "meeting" begins at ten a.m. on its first day and ends one hour after the last race on its last day but not before seven p.m. on said last day. *Effective 1-1-85*

**3769-1-04. Day, month, year**

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

**3769-1-05. Permit**

A "permit" is a permit issued by the commission to conduct a horse racing meeting in Ohio. *Effective 1-1-85*

**3769-1-06. License**

A "license" is a license issued by the commission. *Effective 1-1-85*

**3769-1-07. Persons required to have a license**

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

(B) "Persons required to have a license" pertains to any person whose activities on a race track would require such person to be so licensed. *Effective 1-1-85*

**3769-1-08. Permit holder or association**

A "permit holder" or "association" is 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. *Effective 1-1-85*

**3769-1-09. 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*

**3769-1-10. Ruled off**

"Ruled off" means an individual is denied access to any permit holder's premises and is forbidden to participate in any way in the racing conducted during all meetings. *Effective 1-1-85; 2-2-08*

**3769-1-11. 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*

**3769-1-12. Mutuel field**

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

**3769-1-13. Money position**

"Money position" or "in the money" means first, second or third position. *Effective 1-1-85*

**3769-1-14. Horse**

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

**3769-1-15. Place bred**

A thoroughbred horse is "bred" at the place of its birth. *Effective 1-1-85*

**3769-1-16. Thoroughbred breeder**

The "breeder of a thoroughbred horse" is the owner of the mare at the time of foaling. *Effective 1-1-85*

**3769-1-161. Thoroughbred breeder Award**

A "Thoroughbred Breeder Award" is the payment from the Ohio thoroughbred race fund paid in accordance with Section 3769.083 (C)(3) of the Ohio Revised Code. No award shall be made after the death of the eligible breeder or stallion owner unless there is a surviving co-breeder or stallion co-owner who is registered as such with the commission prior to the date of eligibility. *Effective 8-1-06*

**3769-1-17. Owner**

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

**3769-1-18. Age of horse**

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; 6-15-19*

**3769-1-19. Maiden**

A "maiden" is a horse which never has won a race in any country. A maiden which is disqualified after finishing first is still a maiden. *Effective 1-1-85*

**3769-1-20. Race**

A "race" is a contest of speed for a purse, stakes, premium, wager of money, or for admission fees, on any course, and in the presence of a steward or stewards. *Effective 1-1-85*

**3769-1-21. Purse race**

A "purse race" is a race to which the owners of the horses engaged do not contribute. *Effective 1-1-85*

**3769-1-22. Stake or sweepstake**

A "stake" or "sweepstakes" is a race, in which stakes are posted and in which nominations are made not less than seventy-two hours before noon of the day on which the race is to be run. *Effective 1-1-85*

**3769-1-23. Overnight event**

An "overnight event" is a race for which entries close at a time set by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse. *Effective 1-1-85; 6-1-06*

**3769-1-24. Handicap race**

A "handicap" is a race in which the weights to be carried by the horses entered are imposed by the

handicapper in accordance with his estimate of their abilities.  
*Effective 1-1-85*

### **3769-1-25. Free race or free handicap**

A "free race" or "free handicap" is one in which no liability is incurred for entrance money, stake or forfeit until acceptance of weight allotted, either by direct acceptance or failure to declare out. *Effective 1-1-85*

### **3769-1-26. Claiming race**

A "claiming race" is a race in which every horse starting may be claimed in conformity to the rules. *Effective 1-1-85*

### **3769-1-27. Flat race**

A "flat race" is a race run over a course on which no hurdles or other obstacles are placed. *Effective 1-1-85*

### **3769-1-28. 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, however, start and go once over the course. *Effective 1-1-85*

### **3769-1-29. Produce race**

A "produce race" is a race for the foals of mares named or described at the time of entry. A "futures" is a produce race. *Effective 1-1-85*

### **3769-1-30. Weight for age**

"Weight for age" means weight imposed according to the scale hereinafter provided in the rules of the Ohio state racing commission. *Effective 1-1-85*

### **3769-1-31. Weighing out and weighing in**

"Weighing out" means the weighing of a jockey with prescribed equipment prior to a race, and "weighing in" means such weighing subsequent to a race. *Effective 1-1-85*

### **3769-1-32. Nominator**

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

### **3769-1-33. Nomination or subscription**

A "nomination" or "subscription" is the making of an entry for a stake or handicap race. *Effective 1-1-85*

### **3769-1-34. Arrears**

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

### **3769-1-35. 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 pari-mutuel wagering. *Effective 1-1-85*

### **3769-1-36. Withdrawal**

A horse is "declared," "declared out" or "scratched," and a "declaration," "declaration out" or "scratch" occurs

when the horse is withdrawn from participation in a race.  
*Effective 1-1-85*

### **3769-1-37. Scratch time**

"Scratch time" is the hour appointed by the racing secretary until which scratches or declarations may be made as provided in these rules. *Effective 1-1-85*

### **3769-1-38. When horse is starter**

A horse is a "starter" when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses. *Effective 1-1-85*

### **3769-1-39. Reference to hour of day**

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

### **3769-1-40. Possession/in 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, and feed rooms. *Effective 1-1-85*

### **3769-1-41. Winner defined**

The "winner" is the horse whose nose reaches the finish wire first. The finishing position of all other horses shall be determined in the same manner. *Effective 1-1-85; 3-19-87*

### **3769-1-42. 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 3769-2.  
ADMINISTRATIVE RULES**

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**3769-2-01. 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 steward 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 stewards 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 3769-2-99 of the Administrative Code. *Effective: 1-1-85*

**3769-2-02. May engage auditor**

The commission may at any time, 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*

**3769-2-03. 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 and/or an electronic address. *Effective: 1-1-85; 1-1-03; 2-2-08*

**3769-2-04. Public notice of commission meetings**

(A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:

(1) Writing the Ohio State Racing Commission (hereinafter, "Commission") at its business address; or

(2) Calling the Commission at its business office during normal business hours; 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 hours prior to the special meeting. Telephone notice shall be complete if a message has been left for the media representative, or if, 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)91(B)(2) or (B)(3) of this rule or by notifying the clerk of the state house press room. In such 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, send by regular mail or electronic mail or by fax an agenda of the meeting to those persons. The Commission may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices sent to persons in accordance with this rule. *Effective: 1-1-85; 2-2-08*

**3769-2-05. Jurisdiction**

All thoroughbred 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 stewards or by the commission as the case may be. *Effective: 1-1-85*

**3769-2-06. Commission rules supersede**

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; 2-2-08*

**3769-2-07. Gifts forbidden**

No permit holder or any officer, director or employee thereof shall give or offer to any member, employee or representative of the commission or to any relative of any member, employee or representative, anything 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 his or her official duties and responsibilities. *Effective: 1-1-85; 2-2-08*

**3769-2-08. 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 pari-mutuel 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 address of the person, persons, association, corporation or trust making application;
- (2) If the applicant is an association, the names and mailing 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 mailing addresses of all its directors and stockholders;

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

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

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

(7) The dates and exact location where the applicant will conduct race meetings;

(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 home address of the owner, or the names and home addresses of the directors if the lessee is a corporation; and

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

**3769-2-09. 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; 5-1-85; 8-1-91; 2-2-08*

**3769-2-10. File list of officials**

(A) Each applicant for a commercial permit shall, at the time of making such application or not less than thirty days prior to the first day of the racing meeting for which a permit is granted, file with the commission a listing of the names of each associate steward identifier, starters, racing secretary, handicapper, clerk of scales, jockey room custodian, paddock judge, patrol judges, placing judges, 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 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 race meeting shall be reported promptly to the commission for approval.

(B) Before an individual is approved by the commission to serve as a steward, he or she must demonstrate possession of the mental and physical qualifications to perform the duties required. In addition, the applicant shall

have experience and knowledge of the horse racing industry and completed the appropriate training. The commission may also consider a person's character, reputation, and temperament prior to approval. *Effective: 1-1-85; 8-1-91; 2-2-08*

### **3769-2-11. 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 3769-2-24 and 3769-2-25 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 3769-2-24 and 3769-2-25 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 pari-mutuel taxes or any other obligations owed to the state of Ohio.

(4) The holders of all winning uncashed pari-mutuel tickets.

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

(6) Jockeys which have outstanding fees owed to them.

(D) All horsemen's bookkeeper funds shall be held as a separate interest bearing 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 U.S. treasury notes. *Effective: 1-1-85; 6-6-88; 2-2-08*

### **3769-2-11.1. 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 3769-2-11. 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*

### **3769-2-11.2. 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 3769-2-11(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 3769-2-11(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 3769-2-11(C). This bond may be in addition to any bond provided in accordance with rule 3769-2-11(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) The amount of outstanding fees that the permit holder owes to jockeys. The permit holder must provide a schedule detailing such amounts by jockey.

(7) 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 claims 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.

(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 3769-2-11.

(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 re-open 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*

**3769-2-12. Permits, agriculture societies, tote license**

(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 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 as 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 Revised Code, the rules of racing, and any orders issued by the commission, under penalties provided for in rule 3769-2-99 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 3769-2-24 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 pari-mutuel 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 3769-3 of the Administrative Code.

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

#### **3769-2-13. Place, time & 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 parimutuel wagering 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 pari-mutuel 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*

#### **3769-2-14. Permit holders enforcement obligations**

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

#### **3769-2-15. 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*

#### **3769-2-16. 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*

#### **3769-2-17. 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.

(C) The owner of the real estate shall, at the time the application for a racing permit is filed by the 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 (both general and limited). 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*

#### **3769-2-18. 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 state steward, 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 steward 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 steward. When approved by the stewards and signed by at least one of them, the application shall be forwarded to the commission representative for licensing. If the stewards 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 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; 5-1-85; 9-5-86; 3-19-87; 10-4-92; 1-1-99*

### **3769-2-19. 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 thoroughbred or quarter horse owners who are currently and properly licensed as a thoroughbred or quarter 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*

### **3769-2-20. Written testimony**

The commission may require any person making application for the first time to secure written testimony from two reputable persons that he is personally known to the applicant, and that the applicant is of good reputation and is familiar with the duties of the position he or she seeks. *Effective: 1-1-85*

### **3769-2-21. License restrictions, limitations and conditions**

(A) An applicant for an apprentice jockey license, an assistant trainer license, a jockey license, or a trainer license must be at least eighteen years of age or older.

(B) An applicant for an exercise rider license must be at least sixteen years of age, and if under eighteen years of age, must have written consent of a parent or guardian. Before such license is granted, the commission, or a board of stewards acting in its behalf, shall ascertain that the applicant has suitable qualifications and aptitude to hold an exercise rider's license.

(C) All other applicants for a license must be sixteen years of age or older; provided, 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 of the track stewards.

(D) 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.

(E) The Commission or its designee, for cause, may restrict, limit, or place conditions on any license, including probationary status. *Effective: 1-1-85; 10-5-98; 6-1-06*

### **3769-2-22. Full name, permanent address**

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

### **3769-2-23. License qualifications for trainer, assistant trainer, horseshoer**

(A) Each trainer, or assistant trainer or horseshoer desiring a license shall make application for same in writing on a form provided by the commission. The assistant trainer shall have the same qualifications as a trainer. Upon satisfactory completion of this application form, all trainer or assistant trainer applicants must provide written proof they have worked as a groom or in some other type of apprentice capacity for a minimum of two years prior to applying for a trainer or assistant trainer license. After providing proof of the required two years of groom or apprentice training and after having satisfactorily completed the application form, each trainer and assistant trainer shall take the examinations and/or tests required by the Ohio state racing commission. Satisfactory passing of the required test shall qualify the applicant to be licensed.

(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 to race in a pari-mutuel race in Ohio.

(C) The applicant shall state his or her full name and address, age, and whether or not he or she is, at time of application, under suspension, set down or ruled off or otherwise ineligible for licensing in any jurisdiction. The applicant shall also set forth in said application such other information or data concerning his or her past record, experience and qualifications as may be required by the commission. The applicant shall sign the application and may be required to affirm the truth of all statements therein before a notary public.

(D) An applicant for a trainer or assistant trainer license may be issued an Ohio license without complying with paragraph (A) of this rule provided, he or she had held a valid license in the same category from another state or

other racing jurisdiction, which requires competency testing or similar qualifications, or from which state or other racing jurisdiction the applicant obtains a written statement of his or her competence from a state steward in said state or jurisdiction.

(E) A licensed assistant 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 assistant trainer involving a racing matter.

(F) An applicant for a horseshoer license shall provide written proof he or she had completed an apprenticeship lasting a minimum of one year and pass any test or examination required by the commission. These requirements may be waived by the commission, provided the applicant has held a valid license issued in any jurisdiction that requires competency testing or similar qualifications for horseshoer applicants; or obtained from a state steward in another jurisdiction a written statement certifying the applicant's competence as a horseshoer.

(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; 8-1-91; 10-4-92; 12-5-94; 10-5-98; 2-2-08*

### 3769-2-24. 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
Apprentice jockey	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 scales	50.00
Concession employee	15.00
Concession manager	50.00
Doctor	50.00
Duplicate	15.00
Eligibility to claim	25.00
Exercise rider	15.00
General manager	100.00
Groom	10.00
Horsemen's bookkeeper	50.00
Horseshoe	50.00
Identifier	50.00
Jockey	50.00
Jockey agent	50.00
Jockey room custodian	15.00
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
Pony Person	15.00
Porter	15.00
Racing secretary	100.00
Security	15.00
Stable name (primary)	50.00
Stable name (secondary)	25.00
Starter	50.00
State steward	100.00
Steward	50.00
Supply sales (owner)	100.00
Supply salesman	15.00
Telephone operator	15.00
Timer	15.00
Trainer	50.00
Valet	15.00
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 racetrack 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. 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 and/or servicing of pari-mutuel wagering during the race 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 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. Such computer equipment may be located at a racetrack 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 racetrack 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.

(C) Any breeder who wishes to participate in the Ohio thoroughbred race fund program as defined in section 3769.083 of the Ohio Revised Code must receive a breeders license in the amount of ten dollars. Breeders may be required to submit an additional amount to cover the cost of fingerprinting if the executive director determines the breeder should be fingerprinting.

**(D) Restricted license, county fairs:**

Totalizator	100.00
All quarter horse participants	10.00
Groom	5.00
Mutuel employee	10.00
Owner	10.00
Racing official	10.00
Special D (miscellaneous)	10.00

(E) 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.

(F) Any person who has lost his or her 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 stewards or to the commission. *Effective: 1-1-85; 10-15-85; 6-6-88; 10-14-88; 3-16-90; 10-4-92; 1-1-93; 12-5-94; 6-1-95; 5-15-96; 10-1-06; 3-1-09*

**3769-2-25. 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 quarterhorse meetings. *Effective: 1-1-85; 9-5-86*

**3769-2-26. 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 3769-2-99 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 on 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 stewards 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; 10-4-92*

**3769-2-27. 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 stewards 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*

**3769-2-28. Conduct by licensee**

All persons licensed pursuant to the provisions of rules 3769-2-24 and 3769-2-25 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*

**3769-2-29. 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 stewards 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 stewards shall be fined one thousand dollars and suspended for one year by the stewards, 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 for life. *Effective: 1-1-85; 9-16-88; 10-5-98*

**3769-2-30. 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 3769-2-99 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 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 3769-2-99 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 3769-2-99 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 3769-2-99 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; 10-4-92*

**3769-2-31. Unconstitutionality**

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

**3769-2-32. 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: 5-1-85*

**3769-2-33. 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*

**3769-2-34. License qualifications for horseshoer**

Repealed. *Effective: 8-1-91; 10-5-98*

**3769-2-35. 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: 8-1-96; 3-1-96*

**3769-2-36. 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*

**3769-2-37. 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*

**3769-2-38. 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*

### **3769-2-39. 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*

### **3769-2-40. 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*

### **3769-2-41. 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*

**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 3769-2-24 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 3769-2-19 of the Administrative Code. *Effective: 05-23-15*

**Commission to determine distribution percentage of video lottery terminal income**

(A) Permit holders licensed by the state racing commission who are video lottery sales agents of the Ohio lottery who have not entered into an agreement with the applicable state racing commission recognized horseman's association in accordance with division (C) of section 3769.087 of the Revised Code shall pay not less than nine per cent or more than eleven per cent of the video lottery terminal income for the benefit of breeding and racing in Ohio. The percentage so determined shall not be less than nine per cent or more than eleven per cent of the video lottery terminal income, and shall be a sliding scale based upon capital expenditures necessary to build the video lottery sales agent's master facility plan that was submitted and approved pursuant to Chapter 3770:2-12 of the Administrative Code. The determination of the amount of the allowable expenditure under the master facility plan will be determined by the Ohio facilities construction commission, unless previously determined by the state architect's office. The incremental adjustments of the sliding scale are set forth in the following table:

Investment (\$MM) Inclusive of assumed credit of \$25 mm given for the value of existing land & facilities	Effective Horse Rate at .15% Buy Down Increment
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Excluding License fee	Including License Fee	11% Rate
\$150.00	\$200.00	11%
\$160.00	\$210.00	10.85%
\$170.00	\$220.00	10.70%
\$180.00	\$230.00	10.55%
\$190.00	\$240.00	10.40%
\$200.00	\$250.00	10.25%
\$210.00	\$260.00	10.10%
\$220.00	\$270.00	9.95%
\$230.00	\$280.00	9.80%
\$240.00	\$290.00	9.65%
\$250.00	\$300.00	9.50%
\$260.00	\$310.00	9.35%
\$270.00	\$320.00	9.20%
\$280.00	\$330.00	9.05%
\$290.00	\$340.00	9.00%

(B) The percentage of video lottery terminal income identified in paragraph (A) of this rule shall be paid and distributed consistent with industry practices. *Effective: 8-13-17*

**3769-2-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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 3769-3.  
WAGERING**

<b>3769</b>	<b>HEADING</b>
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3-02	Exotic wagering and entries
3-03	Totalizator
3-04	Lock parimutuel machines
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13-40	Fortune pick (n) pool
13-99	Penalties the commission may impose

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*

**3769-3-02. 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 3769-1-35 of the Administrative code and all field horses as defined in rule 3769-1-12 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 3769-3 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

**3769-3-01. 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

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 payouts; or (c) a fixed number of days between mandatory payouts 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 stewards, 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: 1-1-85; 5-21-90*

### 3769-3-03. 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 parimutuel 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 parimutuel 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*

### 3769-3-04. Lock parimutuel machines

Except for advanced wagering on subsequent races, wagering must close and parimutuel machines will be locked by electrical control at the time the starting gate opens at the start of a race. *Effective: 1-1-85; 5-21-90*

### 3769-3-05. 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 canceled 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 canceled 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 case an additional race with wagering may be added to the program. However, the stewards 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 canceled 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 stewards, 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 stewards, again determines to do so and suitable public announcement is made thereof. *Effective: 1-1-85; 5-21-90*

**3769-3-06. 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*

**3769-3-07. Numbering mutuel windows and mutuel 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; 5-21-90; 1-1-04; 2-2-08*

**3769-3-08. 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*

**3769-3-09. 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*

**3769-3-10. 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*

**3769-3-11. 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 parimutuel manager shall make an immediate decision and inform the state steward 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*

**3769-3-12. 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 pari-mutuel 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 3769-3-02 of the Administrative Code. *Effective: 1-1-85; 5-21-90*

### **3769-3-13. No money wagered on win horse in win 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 wagerers 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 wagerers 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*

### **3769-3-14. No wagering 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 wagerers 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*

### **3769-3-15. No wagering on 1st/2nd/3rd horse in the show pool**

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 pari-mutuel 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*

### **3769-3-16. Dead heats in 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*

### **3769-3-17. Dead heats in 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*

### **3769-3-18. Dead heats in 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*

### **3769-3-19. 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 canceled 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 stewards 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 stewards, 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 canceled or declared "no race" by the stewards 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 canceled 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 stewards 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 stewards 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 stewards 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*

### 3769-3-20. 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 stewards, 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 3769-3-02 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: 5-1-79; 1-1-85; 5-21-90*

### 3769-3-21. 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 stewards, 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 3769-3-02 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: 9-1-83; 1-1-85; 5-21-90*

**3769-3-22. 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 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: 1-1-84; 11-19-88; 5-21-90*

**3769-3-23. 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 interests 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 stewards, 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: 5-21-90*

**3769-3-24. 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.

(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: 6-6-88; 11-19-88; 5-21-90; 6-1-93; 9-1-94; 6-1-95; 1-1-04*

**3769-3-25. 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 canceled 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 state steward, will be allowed for such exchange. If such an announcement and reason-able time cannot be made, the stewards 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 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 [sic] 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: 5-21-90; 3-20-95; 1-1-04*

### 3769-3-26. 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 canceled 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 state steward, will be allowed for such exchange. 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 (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 posted 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 ex-change 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)

(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: 5-21-90; 3-20-95; 1-1-04*

### 3769-3-27. Win three rules

(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: 1-1-85; 6-6-88; 11-19-88; 5-21-90; 5-4-92; 1-1-09*

### 3769-3-28. 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: 1-1-85; 5-21-90; 1-1-93; 8-1-94; 1-1-09*

### **3769-3-29. Pick eight wagering**

Repealed. *Effective: 1-1-85; 5-21-90; 1-1-93*

### **3769-3-30. Quinella double & perfecta double wagering**

(A) The object of these wagers is to select a quinella as defined in paragraph (A) of rule 3769-3-20 or a perfecta as defined in paragraph (A) of rule 3769-3-21 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 3769-3-20) and perfectas (see paragraphs (D) and (E) of [sic] rule 3769-3-21 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 canceled 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 canceled, 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: 1-1-85; 5-21-90*

### **3769-3-31. Pick seven wagering**

Repealed. *Effective: 1-1-85; 8-1-91; 1-1-93*

### **3769-3-32. 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 3769-2-08 and 3769-4-06 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 conversations 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*

### **3769-3-33. Emergency substitute common pool 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*

**3769-3-34. 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)

### 3769-3-35. 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*

### **3769-3-36. Exacta (n) pools**

(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 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 mutual 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*

### **3769-3-37. 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 pools(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 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*

### **3769-3-38. 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 1-10 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*

### 3769-3-39. 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*

### 3769-3-40. 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 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*

### **3769-3-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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*

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## CHAPTER 3769-4. PERMIT HOLDERS AND OFFICIALS

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### 3769-4-01. 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 and badge of the licensed person having access to such area must include a color photograph of that person to whom such license and badge is issued. The color photograph shall be an integral part of the license and badge itself. The commercial permit holder shall be responsible for any unlicensed person in the stable area or for any licensed person being in an area to which he or she 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 where it is easily visible 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 stewards 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 stewards. 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 immediately.

(D) Any person and a permit holder found in violation of this rule shall be subject to the penalties set forth in rule 3769-4-99 of the Administrative Code. *Effective: 1-1-85*

### 3769-4-02. 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*

### 3769-4-03. 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*

### 3769-4-04. Thoroughbred minimum

No race at any thoroughbred meeting shall be scheduled or conducted for a purse of less than two thousand dollars. *Effective: 1-1-85*

### 3769-4-05. Condition books

(A) Not less than thirty days before the first racing day of its meeting, or not more than fifteen days subsequent to the granting of dates for its meeting, whichever shall be later, every permit holder shall submit to the commission a

copy of its first condition book for the commission's consideration and approval. Such first condition book shall set forth the conditions of all races proposed to be conducted by such permit holder during not less than the first six days of its meeting, or during the entire meeting in cases in which its meeting may consist of less than six days. Upon approval of the first condition book of such permit holder, the values of purses, stakes and handicaps therein listed may not be lowered by such permit holder without the consent of the commission. A copy of every succeeding condition book covering races to be conducted during subsequent days of a meeting for which a first condition book shall have been approved by the commission shall be submitted to the commission by such permit holder at least five days before the date specified therein and the purse offered for no race described therein shall be less than the lowest purse specified in such approved first condition book with respect to any race. In the event any proposed race shall be canceled, the purse offered with respect to any substitute race shall not, unless approved by a member of the commission, be less than the lowest purse specified in such approved first condition book with respect to any race.

(B) Copies of the first condition book shall be made available to all horsemen attending the meeting at least five days before the start of the meeting. Copies of each succeeding condition book shall be made available to such horsemen at least five days before the date specified in such succeeding condition book for the running of the first of the races described therein. *Effective: 1-1-85*

### **3769-4-06. Conflict in interest**

(A) No steward, racing secretary, employee in the racing secretary's office, 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 -2-10 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 and track physician are specifically exempted from paragraph (A) of this rule. *Effective: 1-1-85; 4-1-88; 2-6-99*

### **3769-4-07. 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. This 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*

### **3769-4-08. 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*

### **3769-4-09. 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 penalty provided by rule 3769-4-99 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*

### **3769-4-10. Prevent touting**

No tipster or tout shall be permitted to operate on the premises of any permit holder. The permit holder shall, under the penalties provided in rule 3769-4-99 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*

### **3769-4-11. Condition of premises**

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; 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*

### **3769-4-12. 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 state steward 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 state steward.

(1) Secured areas of race tracks shall include, but not be limited to, barn or stable areas, paddocks, stewards stands, state testing barn, jockey rooms, 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 to the permit holder and there shall be a copy delivered to the chief of security, the state steward 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 3769-4-99 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 3769-4-99 of the Administrative Code. *Effective: 1-1-85; 8-1-91; 12-4-09*

### **3769-4-13. Maintain ambulance**

(A) Every commercial permit holder shall furnish and maintain at least one ambulance for human use, staffed with two or more qualified 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 training and racing hours and until the day's program is completed. 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 and shall be prepared and licensed to transport an injured person(s) when necessary from the racetrack facility directly to a hospital or other emergency medical treatment facility located off the grounds of the racetrack. During the running of the race, unless otherwise directed by the stewards due to weather conditions or other extraordinary circumstances, the ambulance shall follow the field until the conclusion of the race. 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; 8-1-91; 1-1-0; 11-1-01; 8-1-19*

### **3769-4-14. Floodlights**

Every permit holder shall install and maintain at his track floodlights to provide adequate illumination of the stable areas at night. *Effective: 1-1-85*

### **3769-4-15. 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*

### **3769-4-16. Sanitation**

Each permit holder shall, on every racing day, provide and maintain in a strictly sanitary condition, such 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*

### **3769-4-17. 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*

### **3769-4-18. Jockeys' quarters**

Every permit holder shall pay particular care to the cleanliness, sanitation and the appearance of the jockeys' quarters to the end that they will be clean, sanitary and habitable at all times. *Effective: 1-1-85*

### **3769-4-19. 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 a minimum area of one hundred square feet for every six horses stabled with adequate facilities for housing personnel therein. *Effective: 1-1-85*

### **3769-4-20. First aid room**

Every permit holder shall have and maintain on its premises a with first-aid equipment to include a defibrillator and such other equipment as directed by the commission. The permit holder shall provide one or more paramedics as defined 4765.01 of the Revised Code during racing hours. *Effective: 1-1-85; 1-1-87; 4-1-88; 11-1-01; 8-1-19*

### **3769-4-21. Visual recordings**

(A) Each permit holder conducting running 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.

(C) In order to educate and protect the jockeys at running tracks, such permit holders shall show said visual recordings the day following to all interested jockeys.

(D) When any steward's ruling regarding a riding 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; 12-4-09*

### **3769-4-22. Officials, stewards**

(A) Stewards shall be responsible to the commission and may be penalized under the provisions of rule 3769-4-99 of the Administrative Code at any time for failure to perform their duties to the satisfaction of the commission.

(B) The stewards, 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 the other officials of the permit holders. *Effective: 1-1-85*

### **3769-4-23. Officials, state stewards**

Where parimutuel wagering is permitted for ten or more days in any meeting, one of the three stewards shall be appointed by the Ohio state racing commission. Such steward shall be known as the state steward and shall be paid by the Ohio state racing commission. The state steward shall be the presiding steward of the meeting for which he/she is appointed by the commission. *Effective: 1-1-85; 9-5-86*

### **3769-4-24. 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 stewards may establish, the stewards 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 refer the 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 stewards 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 stewards.

(C) Any regulations adopted by the stewards 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. *Effective: 1-1-85; 8-1-91; 4-1-99*

### **3769-4-25. Right to inspect**

(A) The stewards shall have the right to inspect all licenses, including owner, trainer, jockey, authorized agent, and jockey agent, and all papers pertinent thereto, and all jockey contracts and assumed names and papers pertinent thereto. The stewards 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 stewards, shall be a violation of this rule and shall subject said person to the penalties provided in rule 3769-4-99 of the Administrative Code. *Effective: 1-1-85*

### **3769-4-26. Supervision by stewards**

(A) All owners, trainers, jockeys, grooms and other persons attendant upon horses shall be under the general supervision of the stewards, and they also shall have supervision over all racing officials and over those parts of the premises of the permit holder used for the conduct of racing. The stewards shall have free access to any parts of the premises used for racing.

(B) The stewards 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 stewards 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 stewards. *Effective: 1-1-85; 5-1-85*

### **3769-4-27. Objectionable characters**

The stewards 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*

### **3769-4-28. May appoint deputy**

In an emergency any steward may appoint his own deputy at any time. If only one steward is present in the stand, he may name additional persons to serve with him. If none of the stewards is present, the clerk of the course shall name persons to serve in the absence of the stewards and shall report the absence in writing to the commission. In no case will there be less than three stewards in attendance during the running of the races. *Effective: 1-1-85*

### **3769-4-29. Provision to fill vacancy**

The stewards shall fill vacancies occurring in other official positions unless the permit holder shall have filled them and notified the stewards 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 stewards 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 stewards one hour before the time set for the first race of the following day. *Effective: 1-1-85*

### **3769-4-30. Steward at racing secretary's office**

It shall be the duty of one or more of the stewards to be in daily attendance at the office of the racing secretary at a time not later than ten minutes before scratch time and to remain until their business is completed. *Effective: 1-1-85*

### **3769-4-31. 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, or his license may be suspended, 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 3769-4-57 of the administrative code or the use of any unlawful drugs, or being guilty of other improper conduct. *Effective: 1-1-85; 1-1-99*

#### **3769-4-32. Daily reports**

The stewards 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 stewards; the record of horses claimed with claiming price and the names of new and old owners; and such other data as the stewards 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*

#### **3769-4-33. Minority opinion**

Should the stewards 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*

#### **3769-4-34. Entries and declarations**

All entries and declarations shall be under the supervision of the stewards, and they may, without notice, refuse the entries of any person or the transfer of any entries. *Effective: 1-1-85*

#### **3769-4-35. Number of horses to race**

The stewards shall determine the number of horses which may safely be started in any purse race, taking into account the limitations of the track. If more horses are entered than may be permitted to start, the starters for the race shall be determined by lot, and the post positions shall be in the order in which the starters are drawn. At the discretion of the racing secretary, a race may be divided and post positions drawn for each division. *Effective: 1-1-85*

#### **3769-4-36. Stewards' list**

The stewards may at any time order an examination of any horse entered in a race or which has run in a race. They may bar the further entry of any horse, and such barred horses shall be placed on a list designated as the stewards' list and shall not be eligible to be entered until they are removed by the stewards from that list. The stewards' list shall be posted in the racing secretary's office with the names of horses barred by the stewards and the date barred. *Effective: 1-1-85*

#### **3769-4-37. May disqualify horse**

The stewards may require the owner and/or trainer of a horse to prove that the horse is qualified in every way to participate in a race. They may also require proof that 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 stewards may disqualify the horse. *Effective: 1-1-85*

#### **3769-4-38. Postponement; withdrawn**

The stewards may postpone a race from day to day. The stewards 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 straight, place and show wagers on the horse or horses withdrawn (except in the case of a horse which may represent part of an entry or mutuel field of two or more horses, with respect to which horse withdrawn there shall be no refund of straight, place or show wagers), and shall make appropriate adjustments in the exotic pool if the race from which the horse or horses withdrawn is one on which exotic wagering is based. *Effective: 1-1-85*

#### **3769-4-39. Replace rider**

The stewards may (for cause or on suspicion of fraudulent practices or attempts) replace any rider with a rider of their selection or place any horse in the charge of a trainer of their selection. Any such action shall be reported by the stewards to the commission with reasons therefor. *Effective: 1-1-85*

#### **3769-4-40. Complaints against officials**

Complaints against an official or officials shall be made to the stewards in writing signed by the complainants. All such complaints shall be reported in writing to the commission together with any action taken thereon. *Effective: 1-1-85*

#### **3769-4-41. Foul riding; disqualification**

(A) The stewards shall take cognizance of foul riding whether objection to same is made or not.

(B) The stewards shall determine the extent of disqualification in cases of fouls occurring during the running of the race. They may place an offending horse behind such horses as in their judgment it interfered with, or they may place it last. *Effective: 1-1-85*

#### **3769-4-42. Objections**

(A) All objections shall be made to the stewards and may be withdrawn only with permission of the stewards. Objections relating to a horse engaged in a race may be made by the owners, trainers, or jockeys of other horses engaged in the race or by officials of the meeting. All objections, except claims of foul or interference during a race, must be in writing and lodged with the stewards within twenty-four hours after the running of the race in question. If there is expense involved in investigating the objection, the stewards may require a reasonable deposit not to exceed five hundred dollars. If the objection is sustained, the deposit shall be returned after deduction of the expense of investigation unless the stewards relieve the objector of this expense. A deposit shall be declared forfeited by the stewards if the objection should prove to be frivolous or vexatious. All forfeited deposits shall be treated in the same manner as fines.

(B) One or more outriders shall be equipped with a radio, for direct contact with the stewards, so that any jockey who intends to file an objection regarding a claim of foul or interference during a race shall do so immediately without waiting until he/she has returned to the dismounting area.

(C) Any outrider who receives an objection from a jockey shall immediately report the objection to the stewards. *Effective: 1-1-85; 10-6-89*

### **3769-4-43. 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 steward, judge, starter or official therein. For any violation of this rule, the offending person or persons may be penalized under the provisions of rule 3769-4-99 of the Administrative Code. *Effective: 1-1-85*

### **3769-4-44. Eye tests**

The commission may require all stewards, placing and patrol judges to undergo periodic vision examinations conducted by licensed oculists, optometrists or other eye specialists. Such examination is to include tests involving distance and color. When such examinations are required, the original examination report will be forwarded to the commission. *Effective: 1-1-85*

### **3769-4-45. Commission approval required of all officials**

All officials designated in rule 3769-2-10 of the Administrative Code shall be appointed by the permit holder subject to the approval of the commission. The commission reserves the right to require at any time the change of any official or officials for what the commission deems good and sufficient reason. *Effective: 1-1-85*

### **3769-4-46. Placing**

At the time the horses reach the finish line, the placing judges shall occupy the stand provided for them and 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 placing 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 placing judges may, with the concurrence or at the direction of the stewards, 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 placing judges shall cause the sign "official" to be displayed; and no ruling of the placing judges or stewards thereafter made shall have any bearing with relation to the payment of winning parimutuel tickets. *Effective: 1-1-85*

### **3769-4-47. 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 placing 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

placing judges shall make a decision, and it shall be final. *Effective: 1-1-85; 4-1-99*

### **3769-4-48. Paddock judge**

The paddock judge shall keep a record of all equipment carried by a horse, and in subsequent races changes will be permitted only with the consent of the paddock judge and stewards. Blinker and whip changes shall also be subject to the approval of the starter and stewards. *Effective: 1-1-85*

### **3769-4-49. Horseshoe inspector**

A qualified horseshoe inspector employed by the permit holder shall be in attendance in the paddock to examine the plating of each horse in each race to see that all horses are properly shod and make such changes as may be required. He shall report his findings to the paddock judge for transmission to the stewards. Bar plates may be used with the consent of the stewards. A horse shall not start in a race if not properly shod. *Effective: 1-1-85*

### **3769-4-50. Track veterinarian**

A veterinarian licensed to practice in Ohio, shall be in the paddock for each commercial thorough-bred 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 stewards daily on each horse entered for the day's races, stating whether it is or is not physically fit to race. The veterinarian's 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's list. *Effective: 1-1-85; 12-4-09*

### **3769-4-51. Clerk of scales**

The clerk of the scales shall weigh jockeys out and in on scales provided and checked for accuracy by the permit holder. *Effective: 1-1-85*

### **3769-4-52. Announce overweight**

The clerk of the scales shall record on the notice board and also have public announcement made of any overweight or any change in jockey, weight or racing colors from those stated on the official program. He shall promptly advise all racing officials of such changes. *Effective: 1-1-85*

### **3769-4-53. Report to stewards**

The clerk of the scales shall report promptly to the stewards any infraction of the rules of racing with respect to weight, weighing or riding equipment and any other infraction which may come to his notice. *Effective: 1-1-85*

### **3769-4-54. Report to racing secretary**

The clerk of the scales shall report to the racing secretary after each race the weight carried by each horse in the race together with the name of each jockey and any overweight. He shall also report post time, running time and such other data as from time to time may be required. *Effective: 1-1-85*

### **3769-4-55. 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 stewards. They shall immediately report to the stewards any violations of the rules of racing observed by them immediately after the finish, and no posting of the order of finish shall be official until all patrol judges have verbally reported to the stewards.

(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 state steward 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 state steward, 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*

#### **3769-4-56. 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, in addition, and by at least one person with a stopwatch. In the event of a temporary failure of the electrical timing device at a commercial race track, it will be permissible for said track to have the official time of each race taken by three individual timers with stopwatches. In addition, under unusual circumstances, the official time can be determined by using the appropriate scientific equipment to determine an accurate time from the official film 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; 3-24-86; 12-5-94; 12-4-09*

#### **3769-4-57. 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 jockeys, apprentice jockeys, clerk of scales, jockey room custodian, identifier, outriders, pony persons, valets, stewards, placing judges, paddock judges, 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 stewards, 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 jockeys, apprentice jockeys, outriders and pony persons, if the results of such test show a reading of more than .035 per cent of alcohol in the blood,

such jockey, apprentice jockey, outrider or pony person shall not be permitted to ride 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 stewards, placing judges, starters, and valets, if the test results in a reading of more than .035 per cent of alcohol in the blood, that individual shall be relieved of his or her 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 be 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 the first offense. For a second refusal, an [sic] 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. *Effective: 1-1-86; 3-19-87; 4-1-88; 8-1-91*

#### **3769-4-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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*

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5-51	Minimum weight
5-52	Eligibility to race
5-53	Weight penalties, allowances
5-54	Apprentice jockey allowances
5-55	Not cumulative
5-56	Allowance at time of starting
5-57	Omission to claim weight allowances
5-58	No penalty for being beaten
5-59	No allowance for being beaten
5-60	Not a claiming race
5-61	Weight disqualification
5-62	Steeple chase
5-63	Disputed race
5-64	Dead heat
5-65	No race off
5-66	Ohio thoroughbred race special acct.
5-67	Cancellation of incorrect registrations
5-68	Cancellation/suspension registrations
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**CHAPTER 3769-5.  
RACING ELIGIBILITY**

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**3769-5-01. Racing secretary**

The racing secretary shall prepare the books of conditions for the races to be run during the meeting and he/she and his/her assistants shall take entries for all races. The racing secretary shall assign post positions for each race by lot by drawing a numbered ball from a bottle in the presence of the owners or trainers. The number drawn shall be the post position for the horse. *Effective: 1-1-85*

**3769-5-02. Clerk of course**

The racing secretary or his/her deputy shall be the clerk of the course. The clerk of the course shall discharge all duties expressed or implied by the rules of racing, report to the stewards all violations of said rules or of the regulations of the meeting, and keep a complete record of all races. *Effective: 1-1-85*

**3769-5-03. Handicapper**

The racing secretary or his/her deputy shall be the handicapper and shall assign weights to equalize the chances of horses named for handicap races. *Effective: 1-1-85*

**3769-5-04. Receive entry fees**

The racing secretary shall receive all stakes, entrance money, jockey fees and other moneys that properly can come to his/her office and in his/her discretion 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*

**3769-5-05. Information on undesirables**

The racing secretary shall, in the interest of racing, keep himself/herself thoroughly informed concerning such forfeits or arrearages as may be authoritatively listed or reported for recognized meetings, using such lists as means of eliminating undesirable people from racing. Other officials shall have access to such information. *Effective: 1-1-85*

**3769-5-06. Overnight list**

The racing secretary shall compile and distribute daily an overnight list which shall carry the names of entries with their post positions, weights and the assigned jockey, if a rider has been named. *Effective: 1-1-85*

**3769-5-07. Official program**

The racing secretary shall compile an official program for the day's racing which shall list the races in the order of their running and the name, post positions, rider and weight for each starter together with such other information as may be pertinent or deemed necessary. *Effective: 1-1-85*

**3769-5-08. Also eligible list**

(A) If more horses are entered for any purse race than can be accommodated, six in addition to those granted post positions may be drawn and placed on an also eligible list. If any of the original starters are withdrawn, their places may be filled from said list.

(B) Any owner or trainer of any horse on the "also eligible list" which does not wish to start such horse in such race shall so notify the racing secretary prior to scratch time for such race and such horse shall be entitled to scratch and shall forfeit any preference to which it may have been entitled.

(C) Where entries are closed two racing days prior to the running of a race, any horse on an "also eligible list," and which also has been drawn into a race as a starter for the succeeding day, shall not be given an opportunity to be drawn into the earlier race for which he had been listed as "also eligible." *Effective: 1-1-85; 1-1-91*

**3769-5-09. Preferred list**

The racing secretary shall keep a list of all horses excluded from races because of too many entries. These horses shall have preference in any race in which they may afterward be entered in accordance with rules and regulations adopted by the racing secretary for the meeting. Said list shall be known as the preferred list. *Effective: 1-1-85*

**3769-5-10. Automatically on preferred list**

When the number of entries exceed the original starters plus six, excess entries shall automatically go on the preferred list. *Effective: 1-1-85*

**3769-5-11. Divisions of preferred list**

Divisions of the preferred list with regard to claiming price or distance may be made at the discretion of the racing secretary. *Effective: 1-1-85*

**3769-5-12. Grade of preference**

The system of determining which excluded horse has preference [sic] over another excluded horse will be up to the discretion of each race track and submitted to the commission for final approval. Whichever system (date system or star system) is used shall be clearly defined in the track rules and shall be based solely on exclusions at that particular track. *Effective: 1-1-85; 4-3-86*

**3769-5-13. Post preferred list**

The preferred list shall be posted each afternoon in a location easily accessible to all horsemen. Any claim of error must be made by ten a.m. of the racing day following posting to receive consideration by the stewards. *Effective: 1-1-85*

**3769-5-14. Claim of preference**

When a horse on the preferred list is entered in a race, a claim of preference shall be made at time of entry and noted on the entry sheet. Claims of error will not be considered by the stewards unless the person making the claim has signed an entry in conformity with this rule. *Effective: 1-1-85*

**3769-5-15. Racing entries**

The racing secretary shall receive entries and declarations for all races. In the absence of notice to the contrary, nominations to and declarations from any stakes closing on the eve of or during a meeting shall be received by the racing secretary. *Effective: 1-1-85*

**3769-5-16. Entry licensing requirements**

No horse may be permitted to race in this state unless the owner, trainer, assistant trainer and jockey 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 3769-2-24 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. In thoroughbred racing no horse shall be permitted to start unless it is saddled by a licensed trainer. *Effective: 1-1-85*

**3769-5-17. Full name of all owners**

Every entry must be made in the name of a person having an ownership interest in the horse and must be made in writing by such owner or by his trainer or by the authorized agent of either or by a jockey agent. The authorized agent or jockey agent must be licensed at the time the entry is received by the race office. The full name of every person having ownership in a horse or any interest in its winnings and the proportions of each or either must be recorded with the racing secretary before it starts at any meeting. The stewards may penalize any failure to comply with this rule and may disqualify any horse which races after being entered in violation of this rule. Under this rule, "in writing" includes electronic methods approved by the commission which generates a printed copy of such writing. *Effective: 1-1-85; 2-1-11; 6-15-19*

**3769-5-17.1. Required information**

(A) All entries must contain the name of the owner, registered stable or lessee of the horse; the name of the owner, trainer, authorized agent or jockey 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.

(B) If a 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,

(C) The owner or trainer must obtain a license before the horse races and provide that license number to the race office. *Effective: 2-1-11*

**3769-5-18. Stable names**

(A) A person wishing to enter horses under a stable name may do so by registering and by paying a fee of fifty dollars, such registration being effective for one year from January first in the year in which registered.

(B) All registrations of stable names by other racing authorities and by the "Jockey Club" shall be recognized in Ohio upon the payment of a fee of twenty-five dollars, except that anyone so registered and racing in Ohio may be required to disclose his real name.

(C) A person cannot register more than one stable name at the same time, nor can he use his real name so long as he has registered a stable name, except as provided in paragraph (E) of this rule.

(D) A stable name may be changed at any time upon Registration of a new stable name and by paying the fee of fifty dollars.

(E) Any person may abandon a stable name in favor of his real name after he/she has given written notice to the commission. Both the abandoned stable name and the real name of the new stable name shall be carried for the next three ensuing starts of all horses racing for such person.

(F) 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 of race horses.

(G) If the horses of a partnership are to be run in the name of a member of the partnership in accordance with rule 3769-5-19 of the Administrative Code, such name need not be registered as a stable name, but all horses of the partnership must be run under such name. However, if a partnership should register a stable name, it cannot run any horse except under that name so long as it is registered.

(H) 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 trainer other than in his legal name.

(I) No stable name shall be used if in the judgement of the stewards it is being used for advertising purposes.

(J) 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.

(K) 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; 10-4-92*

**3769-5-19. Statements of partnership**

(A) Statements with respect to all partnerships and the name and address of every individual having any interest in a horse, the relative proportions of such interest, and the terms of any sale with contingencies, or any lease, or of any arrangements, must be signed by all the parties or by their authorized agents and be given to the racing secretary. A copy of which statements shall be transmitted to the Ohio state racing commission before any horse which is joint property or which is sold with contingencies or is leased can start in any race, except that the stewards may in their discretion for good cause waive this requirement if horses are shipped in for stakes races. All the partners, and each of them shall be jointly and severally liable for all stakes and obligations.

(B) All statements of partnerships, of sales with contingencies, of leases, or of arrangements shall declare the name of the nominator (to whom winnings are payable), in whose name the horses will run, and with whom rests the power of entry or of declaration of forfeit. *Effective: 1-1-85*

**3769-5-20. Emergency authority**

In case of emergency, authority to sign statements of partnerships may be given to the racing secretary by a telegram, promptly confirmed in writing. *Effective: 1-1-85*

**3769-5-21. 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 stewards. After races are drawn, if there is conclusive evidence that a horse properly entered in an overnight race was omitted from the race through the error of a permit holder or its agent or employee, the race will be redrawn, provided the error is discovered prior to either scratch time or printing of the program. However, in the case of stakes, handicaps or races where nominations are taken prior to passing the entry box, the horse shall be given the outside post and race for the purse but will be barred from the wagering.

(B) No change in trainers 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 stewards.

(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 stewards 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 jockeys; payment of expenses the stable incurs; payroll matters; and carrying workers compensation coverage.

(2) The individual has consistently requested the services of a veterinarian to treat horses in his/her stable.

(3) The individual conducts a business relationship with an owner regarding the racing schedules of his/her horses.

(4) The individual is known to have communicated with the racing secretary's office regarding the entering of horses.

(5) The individual is responsible for the saddling and shoeing of a horse.

(6) The individual has been known to accompany specific horses to the paddock.

(7) 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; 2-6-99*

**3769-5-22. 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*

**3769-5-23. Proof of ownership**

The stewards 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. *Effective: 1-1-85*

**3769-5-24. Mutuel entry**

Not more than two horses of the same ownership and/or in charge of the same trainer may be entered for a pure 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*

**3769-5-25. Entries refused**

The entries of any person or the transfer of any entry may be refused without notice. *Effective: 1-1-85*

**3769-5-26. List jockey**

(A) Every owner or trainer or authorized agent or jockey agent shall, if possible, upon making entry, furnish the name of the jockey who will ride his horse, but if this is not possible, the name must be furnished at a time designated by the stewards. At time of entry the owner or trainer or authorized agent or jockey agent shall report the equipment, or change of, his/her horse will carry. Such report shall include information with respect to whip, blinkers, weight, etc.

(B) If an owner or trainer or authorized agent does not name a jockey for his entered horse by the time designated by the stewards, the stewards shall select and name a competent jockey to ride that horse. *Effective: 1-1-85; 1-1-05; 2-1-11*

**3769-5-27. Registration with associations**

(A) No horse may be started in any race unless it be registered and named with the registry office of the "Jockey Club" (New York), or in quarter horse racing, the "American Quarter Horse Association" (Amarillo, Texas). In the event the name of any horse is changed and such change is approved by the registry office, both old and new names shall be carried in the official program until three starts have been made.

(B) No horse shall be allowed to race unless it has been lip tattooed, microchipped 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.

(C) No horse shall be allowed to start unless a "Jockey Club," or "American Quarter Horse Association" registration certificate disclosing actual ownership and the horse's winning official record is on file in the office of the racing secretary, except that the stewards may in their discretion, for good cause, waive this requirement if horses are shipped in for stakes or allowance races, early closers or invitationals, and are otherwise properly identified, provided that a written report of such waiver shall be submitted to the racing commission. *Effective: 1-1-85; 12-4-09*

**3769-5-28. Identification of horse**

(A) When a horse is entered, it must be clearly identified by statement of its name, age, and sex.

(B) Any alteration in the sex of a horse must be reported and noted by the trainer to the racing secretary, or horse identification office immediately and that office must note the same on the foal certificate and notify the proper registry.

(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 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 written certification of the stallion owner is attached to foal certificate 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; 2-1-11*

**3769-5-29. 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 stewards may suspend and refer to the commission such persons in case of fraud or attempted fraud. The stewards 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 3769-5-99 of the Administrative Code. *Effective: 1-1-85*

**3769-5-30. Publish performance**

(A) Every commission licensee exercising a horse shall, upon request of an official timer, correctly identify the horse he is exercising and shall state the distance over which such horse is to be worked and the point on the race track where it is intended to start the workout.

(B) Every commission licensee exercising a horse that has not started in the last year shall report to the official timer, correctly identify the horse he is exercising and shall state the distance over which such horse is to be worked and the point on the race track where it is intended to start the workout.

(C) Any horse starting for the first time must have a minimum of three workouts, one of which must be from the starting gate.

(D) Before any horse is permitted to start, the stewards shall be satisfied that its published past performance, whether in races or workouts, shall be of sufficient number to enable the public to make a reasonable assessment of its capabilities.

(E) Any horse which has not raced for a period of sixty days must have at least one published workout prior to starting in a race, subject to the provisions in paragraph D of this rule. Any horse which has not raced for a period of ninety days must have at least two published workouts prior to starting in a race, subject to the provisions of paragraph D of this rule.

(F) No horse may be permitted to start in a race whose recent workouts have not been properly recorded with the stewards. *Effective: 1-1-85; 1-1-05; 7-2-09*

**3769-5-31. Must be starter**

Every horse entered for a race must be a starter unless it is declared out, excused, or ordered withdrawn. *Effective: 1-1-85*

**3769-5-32. Eligibility of entries**

At thoroughbred tracks, a horse must be eligible to start at time of starting, in an overnight event. *Effective: 1-1-85*

**3769-5-33. Horses ineligible to be entered**

An owner or trainer shall not enter or start a horse that:

- (A) Is not in serviceably sound racing condition;
- (B) Is wearing a trachea tube, or has a hole in its throat for a trachea-tube;
- (C) Has been high nerved as described in rule 3769-8-04 of the Administrative Code;
- (D) Has impaired eye-sight in both eyes. *Effective: 1-1-85; 5-4-92*

**3769-5-34. Veterinarian's, steward's, or starter's list**

- (A) No horse on the starter's list or on the steward's list or on the veterinarian's list may be entered or started.
- (B) All horses scratched by a veterinarian or excused from starting by the stewards for either lameness or sickness shall be put on the veterinarian's list and shall not be removed for three days from the date of the race from which they were scratched. No entries will be accepted on these horses until the three-day period has expired.
- (C) The stewards may put any horse on the steward's list if they consider it noncompetitive or unfit to race at the meeting.
- (D) No horse shall be admitted to any race track facility in Ohio without having had a negative official test for equine infectious anemia within the past twelve months. *Effective: 1-1-85; 10-4-92; 11-2-06*

**3769-5-35. Approval of entries**

- (A) No entry shall be accepted for any horse not stabled on the grounds of the permit holder unless its stabling elsewhere has been approved by the permit holder.
- (B) Entries can be taken from commercial tracks and private and public stabling facilities approved by the permit holder.
- (C) All horses shipping in to race must be at the track where they are to race at a time designated by the permit holder. At no time shall the designated arrival time for horses shipping in to race be less than two hours prior to post time of the race in which the horse is scheduled to participate.

Whenever a horse shipping in to race arrives at the track, it will be made available for examination by the track veterinarian.

In the event of any unavoidable delay, as determined by the stewards, the stewards may determine a reasonable [sic] grace period. *Effective: 1-1-85; 8-1-91; 7-2-92*

**3769-5-36. Closing of stake races**

In stake races, when an hour for closing is designated, nominations and declarations cannot be received thereafter, but if no hour is designated, they may be received until midnight of the day of closing. When nominations or declarations are mailed, the hour of the postmark will determine their validity. Nominations and declarations may be made by telegraph or telephone but must be confirmed promptly in writing. *Effective: 1-1-85*

**3769-5-37. Late nominations**

In the event of the late delivery or non-delivery or miscarriage of any nomination or declaration not made personally, the stewards in their discretion may declare the nomination or declaration valid if satisfactory proof is presented within what the stewards consider to be a reasonable time. *Effective: 1-1-85*

**3769-5-38. Substitution; stakes**

A nomination in a stakes is a subscription and cannot be withdrawn, but another horse may be substituted before the closing time. A person subscribing to a stakes before the time fixed for naming can transfer one or more of his subscriptions to any person or persons. *Effective: 1-1-85*

**3769-5-39. All moneys must be paid**

A horse shall not become a starter for a stakes unless all moneys required under the conditions shall have been paid. *Effective: 1-1-85*

**3769-5-40. Subscription not returnable**

Subscriptions are not returnable on the death of a horse or its failure to start, regardless of the cause of the failure. *Effective: 1-1-85*

**3769-5-41. 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*

**3769-5-42. Notice in writing**

No horse shall be considered scratched or declared out of an engagement until the owner, trainer or authorized agent, or some person deputized by one of them, shall have given due notice in writing to the racing secretary before the time stipulated by the regulations of the permit holder. *Effective: 1-1-85*

**3769-5-43. Automatically out**

For stake races, if a horse is not named through the entry box at the published time of closing, the horse is automatically out. *Effective: 1-1-85*

**3769-5-44. Scratch time in stake race**

Scratches from the stake races will close forty-five minutes before the scheduled post time of the race. *Effective: 1-1-85*

**3769-5-45. Scratches must be approved**

- (A) Every horse entered and drawn for a race must be a starter unless it is scratched or ordered withdrawn, for reason, by the stewards and/or on the advice of the track veterinarian.
- (B) Approved reasons for scratches include, but are not limited to, lameness or sickness of horse; unmanageability

of horse; ineligibility of horse; and other situations approved by the stewards.

(C) Trainers and/or owners who fail to start a horse, which has been entered and drawn into a race and which has not been scratched for an approved reason, may be penalized under rule 3769-5-99 of the Administrative Code by the stewards and/or the commission. *Effective: 10-1-77; 1-1-85; 8-1-91; 1-1-92*

#### **3769-5-46. Irrevocable**

A scratch of a horse whose name appears in a printed program is irrevocable unless the stewards 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*

#### **3769-5-47. Weight for age**

The scale of weights for age hereinafter listed shall be carried when conditions of races do not otherwise specify. *(Please see the appendix.)*

(B) In races of intermediate lengths, the weights for the shorter distance shall be carried. *Effective: 1-1-85; 1-1-05*

#### **3769-5-48. Weights listed**

Repealed. *Effective: 1-1-85; 1-1-05*

#### **3769-5-49. Weights in three- or four- year olds**

Repealed. *Effective: 1-1-85; 1-1-05*

#### **3769-5-50. Filly allowance**

Except in handicaps, two-year-old fillies shall be allowed three pounds, and fillies and mares three years old and/or upward shall be allowed five pounds before September first and three pounds from that date on. *Effective: 1-1-85*

#### **3769-5-51. Minimum weight**

In all overnight races for two-year olds, for three-year olds, or for four-year olds and upward, the minimum weight shall be one hundred twelve pounds, subject to sex and apprentice allowance. This rule shall not apply to handicaps or to races written for three-year olds and upward. *Effective: 1-1-85*

#### **3769-5-52. Eligibility to race**

The reports, records, and statistics as published by the daily racing form, equibase, the breed registry foal certificate, or other recognized publications shall be considered in determining eligibility, allowances, and penalties unless the published conditions of the meeting or for the race in question provides otherwise. *Effective: 1-1-85; 1-1-05*

#### **3769-5-53. Weight penalties, allowances**

(A) Weight penalties are obligatory.

(B) Weight allowances are optional, wholly or in part.

(C) Weight allowance, including apprentice allowance, must be claimed at the time of the overnight entry and shall not be abandoned after posting of entries except by consent of the stewards. *Effective: 1-1-85*

#### **3769-5-54. Apprentice jockey allowances**

(A) The holder of an apprentice jockey certificate is entitled to claim the following allowances in all overnight races, except handicaps.

(B) An apprentice jockey shall ride with a five-pound weight allowance beginning with his/her first mount and for one full year from the date of his/her fifth winning mount.

(C) If, after riding one full year from the date of his/her fifth winning mount, the apprentice jockey has failed to ride a total of forty winners from the date of his/her first winning mount, he/she shall continue to ride with a five-pound weight allowance for one more year from the date of his/her fifth winning mount, or until he/she has ridden a total of forty winners, whichever comes first. *Effective: 1-1-85*

#### **3769-5-55. Not cumulative**

Penalties and allowances of weight are not cumulative unless so declared by the conditions of the race. *Effective: 1-1-85*

#### **3769-5-56. Allowance at time of starting**

(A) A horse shall start with no greater allowance of weight than that to which it is entitled at the time of starting, regardless of its allowance at the time of entry.

(B) Horses incurring weight penalties for a race shall not be entitled to any of the weight allowances for that race.

(C) Horses not entitled to the first weight allowance in a race shall not be entitled to the second, and so on. *Effective: 1-1-85*

#### **3769-5-57. Omission to claim weight allowances**

Omission to claim a weight allowance shall not be cause for disqualification. *Effective: 1-1-85*

#### **3769-5-58. No penalty for being beaten**

No horse shall incur a weight penalty or be barred from any race for having been beaten in any race. *Effective: 1-1-85*

#### **3769-5-59. No allowance for being beaten**

No horse shall receive allowance of weight for having been beaten in any race, but this rule shall not prohibit maiden allowances or allowances to horses which have not won within a specified period or a race of specified value. *Effective: 1-1-85*

#### **3769-5-60. Not a claiming race**

In the computation of weight penalties or allowances, 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*

#### **3769-5-61. Weight disqualification**

No horse shall incur a weight penalty for a placement from which it is disqualified, but a horse placed through the disqualification of another shall incur weight penalties of that placement. *Effective: 1-1-85*

#### **3769-5-62. Steeple chase**

Weight penalties or allowances incurred in a steeple chase or hurdle race shall not apply to flat races or vice versa. *Effective: 1-1-85*

**3769-5-63. Disputed race**

When the decision of a race is in dispute, all horses for which the winner's share is claimed shall carry the winner's weight penalties until the dispute be decided. *Effective: 1-1-85*

**3769-5-64. Dead heat**

All horses involved in a dead heat for first place shall be liable to weight penalties for winning. *Effective: 1-1-85*

**3769-5-65. No race off**

Dead heats shall not be run off. Horses joined in a dead heat for any position for which a share of the purse is payable shall share equally in the money award for the placement. If the owners cannot agree which of them shall receive a cup or other indivisible prize, the stewards shall determine the question by lot. *Effective: 1-1-85*

**3769-5-66. Ohio thoroughbred race special account**

(A) A program of breeders' awards is established under section 3769.083 of the Revised Code. In order to register a horse and/or receive a breeders' award for a foal that was registered after December 31, 2008, the breeder must be licensed in accordance with Ohio rule of racing #3769-2-24.

(1) The state racing commission may pay from the Ohio thoroughbred race special account to the breeder of a horse meeting the qualifications of division (B) of section 3769.083 of the Revised Code winning first, second, or third prize money of a purse for a thoroughbred race an amount not to exceed fifteen per cent of the first, second, or third prize money of such purse. For the purpose of this rule the breeder shall be considered the owner or lessee of the mare at the time the foal is dropped.

(2) The commission may also provide for stallion owners' awards in an amount equal to not less than three nor more than ten per cent of the first, second, or third place share of the purse; the award shall be paid to the owner of the stallion providing the stallion was standing in Ohio as provided in division (A)(1)(b) of section 3769.083 of the Revised Code at the time the horse placing first, second, or third was conceived. The per cent shall be determined in advance by the Ohio state racing commission.

(3) Ohio thoroughbred racing permit holders shall keep records of each race for horses that won first, second, or third places qualifying under section 3769.083 of the Revised Code, and shall submit monthly reports to the Ohio state racing commission on the fifth day of each month, listing all horses qualifying under said section that won first, second, or third places during the previous month. The report shall include the date and number of races, the share of the purse for first, second, and third place finishes, the name of the breeders and the sires of the award winners. The racing commission will then present a voucher to the auditor of state for payment of the breeders' awards, and stallion owners [sic] awards if applicable.

(B) The owner of any broodmare desiring to breed or board her in the state of Ohio and have the offspring qualify for awards under the Ohio thoroughbred race special account must register the mare with the racing commission. Initial and renewal registration shall be on forms provided by the commission and filed on or before August 15th of the year of conception.

(C) The owner of any stallion desiring to use him for breeding purposes and to have him qualify under this rule,

must register said stallion with the Ohio racing commission. Initial and Renewal registration shall be on forms provided by the commission and filed with the commission by the time that he first services a mare that particular year. Said stallion must stand for breeding purposes only in Ohio.

(D) Mares may leave Ohio after foaling to be bred in another state providing they return to Ohio on or before the fifteenth day of August of that year. Owners or authorized agents must notify the Ohio State Racing Commission in writing of the date of the mare leaving Ohio and the date and location of the mare's return, unless they are disqualified for one or more of the following reasons:

(1) Stallion for which no thoroughbred mares bred to said stallion has been submitted to the Ohio state racing commission for a period of five years.

(2) Broodmare has not had a foal registered with the Ohio state racing commission in the last five years.

(3) Broodmare or stallion has been reported and properly verified as dead by an inspector of the Ohio state racing commission. Any broodmare or stallion that falls into the above four categories will have its registration cancelled and destroyed. Any broodmare or stallion registration which has been cancelled for any of the above reasons must be re-registered under the provisions and benefits of the Ohio thoroughbred race special account program on forms provided by the commission.

(E) Any foal born after December 13, 1966, may be registered with the Ohio state racing commission [sic] as an "accredited Ohio thoroughbred horse" provided the horse meets all of the qualifications of division (A)(1) of section 3769.083 of the Revised Code, and provided the registration is on forms provided by the commission.

(F) An owner desiring to register any foal as an Ohio-foaled horse shall do so on forms provided by the racing commission. Such registration is not valid unless the dam of the foal was registered as required by the rules of the Ohio state racing commission and produced a foal which is either of the following:

(1) A horse born of a mare which enters this state before foaling and remains continuously in this state until the horse is born.

(2) A thoroughbred foal produced within the state by any broodmare shipped into the state to foal and bred to a registered Ohio stallion. To qualify this foal as an Ohio-foaled horse, the broodmare must remain in Ohio one year continuously after foaling or continuously through foaling to the cover of the Ohio stallion, whichever is sooner. For the purposes of this paragraph, the term "enters" shall mean physical arrival in this state on or before August 15th of the year in which a foal is conceived.

(G) All horses previously registered as Ohio-conceived and foaled will be considered as Ohio-foaled horses effective January 1, 1976, as provided in division (A)(2) of section 3769.083 of the Ohio Revised Code. All horses registered as Ohio-conceived and foaled will be considered as Ohio-foaled horses effective January 1, 2014 as provided in paragraph (F) of this rule.

(H) Registration fees and time of registration:

(1) In order for a thoroughbred owner or breeder to be eligible for any of the payments provided for in section 3769.083 of the Revised Code, and as provided in this rule, the subject horse must be registered with the commission and the registration fees shall be as follows:

(a) Broodmare	initial registration	\$100.00
	Annual renewal thereafter	25.00
(b) Stallion	initial registration	100.00
	annual renewal	25.00

(c) Ohio foal	initial registration	25.00
(d) Accredited Ohio foal	initial registration	25.00

(2) Registrations for Ohio thoroughbred broodmares, Ohio thoroughbred stallions, Ohio-foal thoroughbred horses and accredited Ohio-foal thoroughbred horses shall be on forms provided by the commission, and shall be filed in accordance with the time schedule established in this rule.

(I) In the event that a foal is not registered on or before October fifteenth in the year of birth, said foal may nevertheless be registered thereafter by the payment of an additional registration fee as follows:

(1) From October sixteenth to December thirty-first of the year of birth--seventy-five dollars;

(2) From January first to December thirty-first of the yearling year--one hundred fifty dollars.

(3) From January first to December thirty-first of the two-year-old--three hundred dollars. Such registration must be on forms provided by the racing commission and supported by affidavits as required by the commission.

(4) From January first to December thirty-first of the three-year-old and any year thereafter, and provided the horse has never raced in any type of race--twenty-five hundred dollars. Such registration must be on forms provided by the racing commission, and supported by affidavits as required by the commission.

(J) Owners of stallions registered with the racing commission shall submit on or before October fifteenth a report of all mares bred during the year in question. Owners of mares registered with the racing commission shall submit a report of all barren mares each year. Said report shall be filed on or before October fifteenth of the year in which the mare was bred.

(K) In the event that a broodmare is not registered prior to the time prescribed in paragraph (B) above, said broodmare may nevertheless be registered thereafter within two years of said broodmare's first foaling in Ohio providing all of the following requirements are met:

(1) An additional registration fee of five hundred dollars shall be paid.

(2) Accompanying registration is a notarized statement of the veterinarian in attendance at foaling or such other persons, as required by the Ohio state racing commission verifying the date of foaling and date of entry into Ohio. *Effective: 1-1-85; 1-1-86; 12-1-86; 4-1-88; 9-5-94; 2-2-08; 3-1-09; 3-27-14*

#### **3769-5-67. 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 and breeder of the horse. *Effective: 1-1-85; 3-5-09*

#### **3769-5-68. Cancellation/suspension of registrations**

Upon failure of a breeder or horseman to furnish the commission requested information relative to the registration of a horse, the commission may suspend or cancel such registration. *Effective: 1-1-85; 3-5-09*

#### **3769-5-69. False application for registration or transfer**

If the commission has reason to believe 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 registrations of horses owned by such person. After a hearing, the commission may suspend, cancel and/or bar from further registrations horses owned by the person who executed the false or misleading application. *Effective: 1-1-85; 3-5-09*

#### **3769-5-70. Registration correction fee**

Any person filing an application for registration with incorrect or incomplete information may be charged ten dollars to defray costs for re-registration. *Effective: 1-1-85*

#### **3769-5-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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) Should the commission find a breeder has violated a rule in this chapter, in addition to any other penalty provided, the commission may:

(1) Increase the penalty to up to a ten thousand dollar fine and up to a ten year suspension;

(2) Deny the breeder any awards that are due in the future; and or;

(3) Require the breeder to return any purses from races which subsequent owners may have won, if as a result of the incorrect information a subsequent owner has been ordered to return purses.

(C) 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.

(D) 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.

(E) 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.

(F) 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; 3-5-09*

**CHAPTER 3769-6.  
CLAIMING; JOCKEY AND  
STARTER RULES**

- 6-44 Jockey must start horse
- 6-45 Must remain on course
- 6-46 Determining foul riding; stewards
- 6-47 Leading horse and fouls
- 6-48 Shall be ridden out
- 6-49 Weighing in
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- 6-55 Excess weight
- 6-56 No disqualification for overweight
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- 6-58 Entries may be disqualified
- 6-59 Subject to fine or suspension
- 6-60 Use of whip
- 6-99 Penalties commission may impose

**3769-6-01. 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*

**3769-6-02. Winnings start on January first**

Winnings during the year shall include all winnings from January first preceding the start. *Effective: 1-1-85*

**3769-6-03. Winner of certain sum**

"Winner of a certain sum" shall mean winner of a single race of that value unless otherwise expressed in the conditions. *Effective: 1-1-85*

**3769-6-04. Contributions deducted**

In estimating the net value of a race to the winner, all sums contributed by its owner or nominator shall be deducted from the amount it won. In estimating the value of a series of races in which an extra sum of money is won by winning two or more races, the extra sum shall be estimated in the last race by which it was finally won. Foreign winnings shall be estimated on the basis of the normal rate of exchange on the day of the winning. *Effective: 1-1-85*

**3769-6-05. Gross earnings**

On and after January 1, 1981, the winnings of a horse in a stake race shall be computed on the value of the gross earnings. *Effective: 1-1-85*

**3769-6-06. Shares in dead heat**

In event of a dead heat, each horse's earnings shall be credited with equal purse as follows:

- (A) Dead heat for first share first and second money;
- (B) Dead heat for second share second and third money;
- (C) Dead heat for third share third and fourth money;
- (D) Dead heat for fourth share fourth and fifth money;
- (E) Dead heat for fifth share fifth money and sixth money.

(F) These subdivisions apply in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run. *Effective: 1-1-85; 1-1-06*

**3769-6-07. 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

3769	HEADING
6-01	Winnings
6-02	Winnings start on January first
6-03	Winner of certain sum
6-04	Contributions deducted
6-05	Gross earnings
6-06	Shares in dead heat
6-07	Claims
6-08	Persons eligible to claim
6-09	Time for depositing claim
6-10	Information on claims restricted
6-11	Title vested when horse becomes starter
6-12	Deliver to paddock
6-13	Failure to deliver
6-14	Restriction on sale of claimed horse
6-15	Moving/racing restrictions of claimed horse
6-16	Claiming races
6-17	Cannot claim own horse
6-18	One claim per race
6-19	Agreement prohibited
6-20	Written consent
6-21	Affidavit by claimant
6-22	Disputed ownership
6-23	Jockey reporting time
6-24	Weighing out
6-25	Safety helmet and vest
6-25.1	Safety reins
6-26	Jockey attire
6-27	Weights
6-28	Sound of bugle
6-29	In hands of starter
6-30	Fair start
6-31	Starter's assistants
6-32	Alter position of assistants
6-33	Outriders
6-34	Mounted attendant
6-35	Horse carries weight, jockey mounted
6-36	Enclosed starting gate
6-37	Starting positions
6-38	Failure to operate
6-39	Discipline by starter
6-40	Report punishments
6-41	Starter approval
6-42	Starter's list
6-43	Not permitted to wager on race

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.

(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*

#### **3769-6-08. 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/she is agent.

(B) An eligibility to claim license may be issued by the Ohio state racing commission subject to rules 3769-2-18, 3769-2-26 and 3769-2-30 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, along with the requisite fee. An eligibility to claim license is valid for thirty days from the date of purchase. 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 3769-6-14 and 3769-6-15 of the Administrative Code. *Effective: 1-1-85; 5-1-85; 1-1-91; 1-1-06*

#### **3769-6-09. Time for depositing claim**

The permit holder shall provide a locked box in which claims shall be deposited in a sealed envelope. The stewards and racing secretary shall have keys to the box. No money shall accompany the claim. The claim shall be deposited in the box no later than ten minutes before the scheduled 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 stewards shall certify its validity and direct the racing secretary to authorize delivery of the horse if the claiming price is on deposit. *Effective: 1-1-85; 6-1-93; 2-6-99*

#### **3769-6-10. 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*

#### **3769-6-11. Title vested when horse becomes starter**

Each horse shall run 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 3769-1-38 of the Administrative Code. If more than one person shall enter claim for the same horse, they shall cast lots to determine the right to consummate the claim in the presence of the stewards, 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*

#### **3769-6-12. Deliver to paddock**

Any horse that has been claimed shall, after the race has been run, be taken to an area designated by the stewards. If a test is required the horse shall be taken to the test barn and shall remain in the care of the original trainer until released by the commission veterinarian who shall thereafter release to the claimant. *Effective: 1-1-85; 1-1-06*

#### **3769-6-13. Failure to deliver**

Any person who refuses to deliver a horse claimed out of a claiming race, shall be fined and/or suspended by the stewards and liable to the penalties set forth in rule 3769-6-99 of the Administrative Code. *Effective: 1-1-85*

#### **3769-6-14. Restriction on sale of claimed horses**

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; 7-1-01*

#### **3769-6-15. Moving and racing restrictions of claimed horse**

(A) No thoroughbred horse claimed in Ohio may be raced in another state, except in a stake race, for a period of sixty days. *Effective: 1-1-85; 5-1-85; 8-1-91; 6-1-95; 7-1-01; 2-2-08*

#### **3769-6-16. Claiming races**

A claimed horse may be entered in subsequent claiming races for such claiming price as the claimant of said horse may determine. *Effective: 1-1-85; 8-10-95*

#### **3769-6-17. 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 stewards shall suspend any person who violates this rule and the commission may rule off the offender in addition to any other penalty provided for in rule 3769-6-99 of the Administrative Code. *Effective: 1-1-85*

#### **3769-6-18. One claim per race**

No authorized agent, although representing several owners, shall submit more than one claim for any one race. *Effective: 1-1-85*

#### **3769-6-19. 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 running a horse in any race for which it is entered, or any owners running horses in a claiming race who make an agreement for the protection of each other's horses, may be fined, and/or suspended or referred to the commission for further action. *Effective: 1-1-85*

#### **3769-6-20. Written consent**

(A) No person or persons 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, unless before entering the horse, the written consent of the holder of the outstanding claim shall be filed with the racing secretary.

(B) Any person or persons violating this rule may be fined and/or suspended and referred to the commission by the stewards. The commission may rule off or take other action against such person or persons as they deem appropriate. *Effective: 1-1-85*

### **3769-6-21. Affidavit by claimant**

The stewards may require any person making a claim for a horse to make an 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 stewards and/or the commission. *Effective: 1-1-85*

### **3769-6-22. 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*

### **3769-6-23. Jockey reporting time**

Every jockey who is engaged to ride in a race shall report to the scale room on the day of the race at the time required by the officials. He or she shall then report his or her engagements and overweight, if any, to the clerk of the scales. *Effective: 1-1-85*

### **3769-6-24. Weighing out**

(A) All jockeys engaged for a race shall be weighed out not less than twenty minutes before the post time for the next race.

(B) A jockey's weight shall include his/her clothing, boots, saddle and its attachments and any other equipment except the whip, bridle, bit or reins, safety helmet, safety vest, blinkers, goggles and number cloth. A safety vest shall weigh no more than two pounds and shall be designed to provide shock absorbing protection to the upper body of at least a rating of five, as defined by the British equestrian trade association (BETA). *Effective: 1-1-85; 1-1-94*

### **3769-6-25. Safety helmet and vest**

(A) A safety helmet of design approved by the commission and/or the stewards must be worn by every jockey in a race. An approved safety helmet shall also be worn by any person engaged in working out a horse on any flat racing strip. The outriders shall report all violations to the stewards who may fine and/or suspend any person who violates this rule.

(B) A jockey or apprentice jockey shall not ride in any race unless he/she wears a safety vest. Such safety vest shall provide a minimum of shock absorbing protection to the upper body of a five rating as defined by the British [sic] equestrian trade association. A safety vest shall weigh no more than two pounds and shall not be included in the jockey's weight when weighing out to race. *Effective: 1-1-85; 10-4-92; 1-1-94*

### **3769-6-25.1 Safety reins**

(A) No jockey, apprentice jockey, exercise person or any person mounted on a horse shall ride, breeze, exercise, gallop or workout 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 Horsemen's Benevolent and Protective Association, the Jockeys Guild, the Ohio Thoroughbred Breeders and Owners, and any other group or persons who request such notice. The notice will indicate that Rule 3769-6-25.1 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*

### **3769-6-26. Jockey attire**

The jockey shall be weighed out fully dressed in his/her riding clothing of cap, jacket, breeches and boots. His/her weight shall include saddle with attachments including undergirth, stirrups, webbing and weight pad, if weight pad is needed. The weight shall not include safety helmet, safety vest, bridle or whip. He/she shall wear an arm number corresponding to his/her saddle cloth number. His/her whip shall weigh not more than one pound and be approved by the track stewards. Whips shall be limited to thirty inches in length, including a looped popper of not less than one and one-quarter inches in width. The clerk of scales shall have the duty of checking the whips used by riders in a race. The bridle shall weigh not more than two pounds. The use of spurs is prohibited. *Effective: 1-1-85; 1-1-94*

### **3769-6-27. Weights**

The owner or his representative shall be responsible for the weight his horse carries. No horse may carry more than two pounds overweight without consent of its owner or trainer, but in no case shall a horse carry more than seven pounds overweight, except in a stakes race where no more than ten pounds overweight shall be permitted. *Effective: 1-1-85*

### **3769-6-28. Sound of bugle**

A bugle shall be sounded as the horses come upon the track. After the horses enter the track, the course over which the horses will run shall be closed to all but racing officials until the stewards direct that it be reopened. *Effective: 1-1-85*

### **3769-6-29. 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 and carry their weight from paddock to starting post, and no jockey shall dismount without permission of the starter. Attendants may not care for horses during the parade except by permission of the starter.

(B) Each horse shall parade past the stewards' stand unless excused by the stewards.

(C) After a horse enters the track and passes the stewards' stand, only the hands of the pony person assigned to the horse, the jockey, an assistant starter, an outrider on a lead pony or the track veterinarian may touch the horse before the start of the race.

(D) 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. After passing the stewards' stand once, horses will be allowed to break formation and canter, warm up or go as they please to the post. When horses have reached the post, they shall be started without unnecessary delay. *Effective: 1-1-85; 1-1-92; 2-2-08*

### **3769-6-30. Fair start**

(A) The starter shall give such orders and take such measures not in conflict with the rules of racing, as are necessary to secure a fair start.

(B) Should an accident or malfunction of the starting gate, or other unforeseen event during a race, compromise the fairness of the race or safety of race participants, the stewards may declare individual horses to be nonstarters, exclude individual horses from one or more pari-mutuel pools, or declare a no contest and refund all wagers except as otherwise provided in the rules involving muti-race wagers.

(C) Any owner or trainer who desires his or her horse not to be tailed or tonged at the starting gate by the assistant starters shall, at the time of entry, submit a written request to the starter and said horse will not be tailed or tonged. *Effective: 1-1-85; 1-1-06*

### **3769-6-31. Starter's assistants**

With the approval of the stewards, the starter shall be required to appoint additional assistants in sufficient number, which in any event shall be no less than eight, so as to insure that each starting horse in each race of that day's live racing program will be promptly and efficiently loaded in the starting gate. Neither the starter nor his assistants shall strike or use abusive language towards a jockey upon penalty of disciplinary action by the stewards. Neither the starter nor his assistants shall exercise force or abuse upon a horse upon penalty or disciplinary action by the stewards. *Effective: 1-1-85; 1-1-01*

### **3769-6-32. Alter position of assistants**

The starter shall change the positions of his assistants on the track for each race and shall not designate their respective positions until after the horses have left the paddock. *Effective: 1-1-85*

### **3769-6-33. Outriders**

There shall be two or more outriders in all races at all running horse racing meetings on each day that racing occurs. *Effective: 1-1-85; 1-1-06*

### **3769-6-34. Mounted attendant**

By permission of the stewards and upon payment of not less than a five-dollar fee through the horsemen's bookkeeper, a mounted attendant may lead a horse to the starting post but any horse so led must pass the stand. *Effective: 1-1-85*

### **3769-6-35. Horse carries weight and jockey stays mounted**

(A) Each horse shall carry the full weight assigned for that race from the paddock to the starting point and throughout the race.

(B) After the horses enter the track, no jockey may dismount nor entrust his or her horse to the care of an attendant except in case of an accident or injury to the jockey or the horse or in the event of an equipment problem, and then only with the prior consent of the starter.

(C) During any delay in which a jockey is permitted to dismount, all other jockeys may, with the permission of the starter or the stewards, dismount for the same period of time and their horses may be attended by assistant starters or pony persons. *Effective: 1-1-85; 1-1-92*

### **3769-6-36. Enclosed starting gate**

All starts at thoroughbred meetings shall be made from an enclosed starting gate, and there can be no start until and no recall after the starter has caused the gates to be opened; provided, that in an emergency and with permission of the stewards the start may be made from a starting gate with opened stalls or with a flag or in any other manner that the stewards may prescribe, but no start shall be effected until the starter shall have given the agreed signal for said start and no recall shall be possible after he shall have given the agreed signal. *Effective: 1-1-85*

### **3769-6-37. Starting positions**

Horses shall take their positions in the starting gate in alternating sequence, with the horse assigned to the post position closest to the inside rail and the horse assigned to the post position nearest to the middle of the field being loaded first, and so on until the field is properly loaded, unless in the starter's opinion a horse is unduly fractious or unruly in which case the starter shall be the first authority as to the horse's numerical loading into the starting gate. *Effective: 1-1-85; 3-8-01*

### **3769-6-38. Failure to operate**

If when the starter gives the signal for the start of any race, the doors at the front of one or more of the stalls should fail to open, causing the occupant or occupants to be left, or if a horse is not in the starting gate stall when the field is dispatched, thereby causing a horse to be left, the starter shall notify the stewards immediately, who shall notify the parimutuel department that such horse or horses so left shall be deemed for all purposes not to have participated in said race but to have been withdrawn therefrom immediately subsequent to the finish of the next preceding race; and the permit holder shall thereupon make disposition of wagers upon such horse or horses in accordance with such notification by the stewards, and pursuant to the provisions of rule 3769-4-38 of the Administrative Code. If such a situation should arise with respect to a race for which nominating, eligibility or starting fees have been paid, all fees paid with relation to the horse or horses left shall be deducted from the purse and refunded to the nominator or the respective nominators. *Effective 1-1-85*

### **3769-6-39. Discipline by starter**

The starter may, with the approval of the stewards, discipline jockeys for rule infractions at the post or for disobedience of the starter's instructions by a fine not to exceed two hundred fifty dollars and/or suspension of not more than five days. However, the stewards may impose a

more extended suspension. Such suspension shall begin at the close of the day's racing. *Effective: 1-1-85; 1-1-06*

### **3769-6-40. Report punishments**

Repealed. *Effective: 1-1-85; 1-1-06*

### **3769-6-41. Starter approval**

No horse shall be permitted to start without being approved by the starter. *Effective: 1-1-85; 1-1-87; 1-1-06*

### **3769-6-42. 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, a copy of which shall be delivered to the racing secretary. The starter's list shall be posted in the racing secretary's office with the list of horses not qualified to start. *Effective: 1-1-85*

### **3769-6-43. Not permitted to wager on race**

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 penalty of immediate suspension or revocation of license and/or being referred to the commission for further action. *Effective: 1-1-85*

### **3769-6-44. Jockey must start horse**

The horse must be started by the jockey. No other person except the starter or an assistant starter shall be permitted to help in effecting a start by striking a horse or shouting at it or otherwise assisting. *Effective: 1-1-85*

### **3769-6-45. Must remain on course**

If a horse leaves the course, it shall be disqualified. *Effective: 1-1-85*

### **3769-6-46. Determining foul riding; stewards**

Every jockey shall be responsible for making their best effort to control and guide their mount in such a way as not to cause a foul. The stewards shall take cognizance of riding which results in a foul, irrespective of whether an objection is lodged, and if in the opinion of the stewards a foul is committed as a result of a jockey not making their best effort to control and guide their mount to avoid a foul, whether intentionally or through carelessness or incompetence, such jockey or horse may be penalized at the discretion of the stewards. *Effective: 1-1-85*

### **3769-6-47. Leading horse and fouls**

A leading horse when clear is entitled to any part of the track. If a leading horse, or any other horse in a race, swerves or is ridden to either side so as to interfere with or intimidate or impede any other horse or jockey, or to cause same, it is a foul. If a jockey strikes another horse or jockey, it is a foul. If in the opinion of the stewards, a foul has been committed, any offending horses may be disqualified by the stewards and the jockey fined and/or suspended. *Effective: 1-1-85*

### **3769-6-48. Shall be ridden out**

Every horse shall be ridden out unless injured. Any jockey who, without adequate cause, shall rein in before crossing the finish line or who shall fail to use his/ her utmost exertion to obtain a winning performance from the horse ridden by him/her may be suspended, ruled off, or may be subject to such other penalty as the stewards or commission may impose. *Effective: 1-1-85*

### **3769-6-49. Weighing in**

At the conclusion of any handicap, stake or sweepstakes race, upon pulling up after a race, each jockey shall return to the place of weighing, in public view or adjacent to the winners circle, and there dismount, but not before permission to do so has been asked and obtained of the stewards, and be weighed in by the clerk of scales. If a jockey's horse is in such condition that he/she cannot ride it to the scales, or if he/she is ill or injured, he/she may walk or may be carried to the scales, or he/she may be excused by the stewards from weighing in. In all races other than a stake or handicap race, the stewards may declare the race official prior to the time that each jockey weighs in. However, each jockey shall still be required to weigh in immediately after dismounting. *Effective: 1-1-85; 10-6-89*

### **3769-6-50. Must use licensed outrider**

Except in stakes and handicap races when permission may be granted by the stewards, no mounted attendant, except a licensed outrider, shall be permitted to lead a horse to the place of dismounting after such horse has been pulled up by the jockey at the end of a race. *Effective: 1-1-85*

### **3769-6-51. Must take own equipment off**

No person shall assist the jockey in taking his/her equipment off his/her horse except by permission of the stewards. *Effective: 1-1-85*

### **3769-6-52. Covering restricted**

No person shall throw any covering over any horse at the place of dismounting until its equipment shall have been removed. *Effective: 1-1-85*

### **3769-6-53. Weigh in immediately**

No jockey shall touch any person or thing before weighing in under penalty of fine and or suspension. *Effective: 1-1-85*

### **3769-6-54. Must weigh in**

If a jockey who is not excused does not present himself/herself to be weighed in, he/she may be fined and/or suspended. *Effective: 1-1-85*

### **3769-6-55. Excess weight**

If any jockey brings in more than two pounds in excess of their weight out, they may be fined and/or suspended unless the stewards are satisfied that such overweight is caused by an accumulation of mud and water in the clothing of the jockey. *Effective: 1-1-85*

### **3769-6-56. No disqualification for overweight**

No horse shall be disqualified for bringing in overweight. *Effective: 1-1-85*

**3769-6-57. Disqualification for underweight**

If a horse brings in weight which is short by two or more pounds of the weight out, it shall be disqualified. *Effective: 1-1-85*

**3769-6-58. Entries may be disqualified**

When a horse is disqualified, the other horse or horses in the same race coupled with it as an entry, in the discretion of the stewards, may be disqualified. *Effective: 1-1-85*

**3769-6-59. Subject to fine or suspension**

If any jockey is guilty of violating rules with respect to weight or weighing or if he/she fails to bring in his/her weight out, he/she may be fined and/or suspended. *Effective: 1-1-85*

**3769-6-60. Whip restrictions**

A jockey may be fined and/or suspended for the following actions that could be considered excessive, indiscriminate or brutal use of the whip.

- (A) Causing visible injury to a horse.
- (B) Striking another horse or rider on the track.
- (C) Using the whip on a tired horse.
- (D) Whipping a horse after a race.

(E) The use of any goading or mechanical device, chain, nail, or appliance, other than the ordinary whip used for racing.

(F) The use of a whip which is longer than thirty inches in length, including a looped popper of not less than one and one quarter inch in width.

(G) Any other use of the whip the stewards may deem inappropriate. *Effective: 4-1-88; 10-5-98; 6-2-05*

**3769-6-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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*

7-45	Disqualification, purse redistribution
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## CHAPTER 3769-7. OWNER AND JOCKEY RULES; VIOLATIONS

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### 3769-7-01. 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 shall desire to ride his own horse in a race may be issued a jockey's license, at the steward's discretion, but must also secure an owner's license. No applicant shall be issued a jockey's license without meeting the qualifications listed in 3769-7-13.

(B) In addition to all other rules applicable to license as promulgated by the commission, an owner 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*

### 3769-7-02. Owner's 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*

#### **3769-7-03. 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 their engagement as an agent by an owner and/or a trainer. *Effective: 1-1-85*

#### **3769-7-04. Registration colors**

(A) Each owner shall be entitled to register a set of racing colors without fee other than that which covers the owner's license. Such colors shall not be claimed or used by others except after three years withdrawal from the turf. In thoroughbred racing, no horse shall be allowed to race unless the owner's colors are registered with the stewards and/or commission. If two conflicting applications are received, priority shall be given to applicants who have their colors registered with the "Jockey Club." An owner's colors shall not be used by a jockey to ride horses owned by other parties. Substitute colors may be permitted for one race only at a meeting. Thereafter a fine up to fifty dollars shall be imposed for each race without proper colors.

(B) Each permit holder shall provide a sufficient number of jockey caps however, an owner can substitute a cap as part of his/her colors, said cap need not have a number affixed thereto. *Effective: 1-1-85; 6-15-19*

#### **3769-7-05. Contrasting colors**

When two horses, the property of one owner, are run in a race, caps of contrasting colors shall be provided for the jockeys of the horses of the entry. *Effective: 1-1-85*

#### **3769-7-06. Contracts in writing**

Any person who shall entice away or attempt to entice away any employee from honoring any written agreement with another licensee may be fined and/or suspended or penalized under the provisions of the penalties provided by rule 3769-7-99 of the Administrative Code. *Effective: 1-1-85; 6-1-06*

#### **3769-7-07. Penalties for misrepresentation**

Repealed. *Effective: 1-1-85; 6-1-06*

#### **3769-7-08. Termination of employment**

Repealed. *Effective: 1-1-85; 6-1-06*

#### **3769-7-09. Must give cause for discharge**

When an owner or trainer shall discharge a jockey, groom or attendant, such owner or trainer shall, upon demand in writing, give such jockey, groom or attendant a written statement setting forth the cause and reason for the discharge and shall forthwith pay them to date for service theretofore rendered. On refusing to do so, they may be fined and/or suspended. *Effective: 1-1-85*

#### **3769-7-10. Substitute training**

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 stewards, a statement accepting responsibility for such horses being trained. *Effective: 1-1-85*

#### **3769-7-11. Jockey used to prevent riding for another**

Any owner or trainer who shall employ a jockey in a race to prevent him/her from riding for another in the same race, may be fined, suspended or referred to the commission. *Effective: 1-1-85*

#### **3769-7-12. Physical examination**

(A) Jockeys or apprentice jockeys, when required by the stewards, must provide from a licensed physician a statement certifying that in their opinion they are physically capable of performing the activities and duties of a licensed jockey, 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 or being treated for the use of, any illegal or prohibited drugs or narcotics.

(B) The stewards may refuse to allow any jockey or apprentice jockey to ride at a meeting until the required medical certification is presented to the stewards. *Effective: 1-1-85; 2-1-94*

#### **3769-7-13. License required to ride**

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

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

*Effective: 1-1-85; 8-1-19*

**3769-7-14. Apprentice jockey**

(A) Before an apprentice jockey license is granted, the commission, or a board of stewards acting in its behalf, shall ascertain that the applicant has suitable qualifications and aptitude to hold an apprentice jockey's license and that applicant has not been previously licensed as a jockey under any jurisdiction.

(B) Upon compliance with these requirements, the commission may issue an apprentice jockey certificate allowing the holder to claim this allowance in overnight races only.

(1) An apprentice jockey shall ride with a five-pound weight allowance beginning with his/her first mount and for one full year from the date of his/her fifth winning mount.

(2) If, after riding one full year from the date of his/her fifth winning mount, the apprentice jockey has not ridden forty winners, the applicable weight allowance shall continue for one more year or until the fortieth winner, whichever comes first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted.

(3) The commission may extend the weight allowance of an apprentice jockey when, in the discretion of the commission, the apprentice provides proof of incapacitation for a period of seven or more consecutive days. The allowance may be claimed for a period not to exceed the period such apprentice was unable to ride.

(4) The apprentice jockey must have their apprentice certificate with them at all times and must keep an updated record of their first forty winners. Prior to riding, the certificate must be submitted to the clerk of scales, who will record the apprentice's winning mounts. *Effective: 1-1-85; 4-1-99; 6-1-06*

**3769-7-15. Restriction on financial interest**

No jockey who has any financial interest in any race horse in training at a meeting shall ride any other horse at the same meeting. *Effective: 1-1-85*

**3769-7-16. May not ride against employer**

No jockey shall ride any other horse in a race in which his employer has a starter. *Effective: 1-1-85*

**3769-7-17. Jockey fees earned**

(A) No jockey shall make or have made an engagement without the permission of their contract employer.

(B) A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey, of his/her own free will, takes himself/herself off his/her mount, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above shall be at the discretion of the stewards. *Effective: 1-1-85*

**3769-7-18. Wager restriction**

No jockeys shall wager on any horse other than their own mount in any race in which they ride or permit anyone so to wager for them. For any violation of this rule, the jockey shall be fined and suspended and referred to the racing commission. *Effective: 1-1-85*

**3769-7-19. Riding engagements**

A jockey may make his/her own engagements, or they may be made by his/her contract employer or by the authorized agent for same or by the trainer of the stable to

which the jockey is attached by contract or agreement or by the trainer's agent or by a jockey agent. *Effective: 1-1-85*

**3769-7-20. Duty to fulfill engagements**

Every rider shall fulfill their daily scheduled riding engagements, unless excused by the stewards. No rider shall be forced to ride a horse they believe to be unsound, nor over a racing strip they believe to be unsafe, but if the stewards find a rider's refusal to fulfill a riding engagement is based on a personal belief unwarranted by the facts and circumstances, such rider shall be subject to disciplinary action. *Effective: 1-1-85*

**3769-7-21. Corrupt riding**

If the stewards are satisfied that a race was ridden corruptly or that a jockey was instructed or induced so to ride, all persons guilty of complicity in the offense shall be fined and suspended and referred to the commission. *Effective: 1-1-85*

**3769-7-22. Fraudulent practices**

(A) No person shall:

(1) Corruptly give or offer money, share in a bet or offer other benefits to any person having official duties in relation to a race or to any jockey;

(2) Having official duties in relation to a race or any jockey 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 unqualified;

(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 jockey possesses any interest;

(6) Make any bet with or on behalf of any jockey, unless on a horse such jockey is riding;

(7) Offer or give, except through his employer or the owner or trainer of the horse ridden, a jockey any present, money or other reward in connection with his riding in any race;

(8) Accept a ticket or make a bet on any horse other than the one he rides.

(B) If any person be guilty of any corrupt or fraudulent practices in this or any other country, then such person or persons shall be suspended and referred to the commission.

(C) No jockey may accept payment of any kind, directly or indirectly, from any person other than the owner of the horse such jockey rides 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 of 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 there of immediately to the presiding state steward. Any person failing to report such information to the state steward shall be suspended and referred to the commission. *Effective: 1-1-85*

**3769-7-23. Jockey agent**

(A) Each jockey agent shall be licensed by the commission and shall be permitted to make the riding engagements of two riders only, one journeyman and one

apprentice or two journeymen. No jockey agent shall make or assist in the making of any engagements for any rider other than those they are licensed to represent. Each jockey agent shall keep, on a form provided by the permit holder, a record by races of all engagements made by them of the riders they represent. This record must be kept up-to-date and held ready at all times for inspection by the stewards. If any jockey agent gives up the making of engagements for any rider, they shall immediately notify the stewards and they shall also turn over to the stewards a list of any unfilled engagements they may have made for that rider. A jockey agent may not drop a rider without notifying the stewards in writing. All rival claims for the services of a rider will be adjudged by the stewards.

(B) When an owner or trainer engages the services of a jockey through a jockey agent, they must specify whether they have first or second call. Such call must be declared at the time of entry.

(C) Before each day's entries are taken, jockey agents are required to file their first and second calls in each race in the racing secretary's office with a person designated by the stewards. If, during the time entries are being taken, an agent should lose or pick up a call, they shall immediately add these calls to the one previously filed. *Effective: 1-1-85*

### 3769-7-24. Rival claims

(A) The stewards may suspend any agent who falsifies their record and may refer their case to the commission for further action, and the commission may revoke the license of any such agent. Jockey agents will be called upon to explain rival claims for any mount or for any rider, and inability to satisfy the stewards that the rival claims arose through a bona fide error shall be considered a falsification of records.

(B) Under no circumstances shall jockey agents be permitted within the saddling enclosure during racing hours, nor shall said agents be allowed on the race track proper at the conclusion of any race. *Effective: 1-1-85*

### 3769-7-25. Report to jockey quarters

(A) Jockeys shall report to the jockeys' quarters at the time designated by the stewards. Jockeys' shall report their engagements and any overweight to the clerk of scales.

(B) Each rider reporting to the jockeys' room shall remain in the jockeys' room until they have fulfilled all of their riding engagements for the day, except to ride in a race, or except to view the running of a race from a location approved by the stewards. While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the jockeys' room other than an owner or trainer for whom he/she is riding, or a racing official, until such jockey has fulfilled all his/her riding engagements for the day. The stewards may allow the jockeys to communicate with other persons only in the presence of the clerk of scales or other persons designated by the stewards.

(C) Once jockeys' have fulfilled their riding engagements for the day and have left the jockeys' quarters they shall not be admitted to the jockeys' quarters until the entire racing program for that day has been completed, except with the permission of the stewards. Any licensed jockey who has no riding engagements for any given day will not be permitted in the jockeys' quarters. *Effective: 1-1-85; 6-15-19*

### 3769-7-26. Jockey room custodian

(A) It shall be the duty of the jockey room custodian to see to it that order, decorum and cleanliness are maintained in the jockey and scale room.

(B) The custodian shall assist the clerk of the scales in any way that official requires.

(C) The custodian shall see to it that no person, other than racing officials, the racing commission and the necessary jockey room attendants, are admitted to the jockey room after one hour prior to the post time of the first race on a day of racing, without consent of the stewards. *Effective: 1-1-85*

### 3769-7-27. Intoxicants prohibited

Jockeys 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. Jockeys may be granted permission by the stewards to use drugs prescribed by a physician. *Effective: 1-1-85*

### 3769-7-28. Restriction from betting area

Jockeys, while in colors, shall not enter the grandstand, clubhouse or other areas in which parimutuel tickets are sold. Any jockey violating this rule shall be fined, suspended and referred to the commission. *Effective: 1-1-85*

### 3769-7-29. Jockey fee schedule

(A) Except as may be otherwise agreed to between the parties, the fees to be paid thoroughbred jockeys shall be according to the following schedule:

Purse	Winning Mount	Second Mount	Third Mount	Fourth Mount	Losing Mount
Up to \$5,999	10% of Win purse	\$65	\$60	\$55	\$50
\$6,000-\$7,799	10% of Win purse	\$75	\$70	\$65	\$60
\$7,800-\$9,999	10% of Win purse	5% of place purse	\$75	\$70	\$65
\$10,000-\$17,999	10% of Win purse	5% of place purse	\$85	\$80	\$75
\$18,000-\$24,999	10% of Win purse	5% of place purse	5% of show purse	\$85	\$80
\$25,000-\$49,999	10% of Win purse	5% of place purse	5% of show purse	\$95	\$85
\$50,000-\$74,999	10% of Win purse	5% of place purse	5% of show purse	\$100	\$90
\$75,000 and up	10% of Win purse	5% of place purse	5% of show purse	5% of fourth purse	\$105

(B) The winning jockey fee in a stakes race shall be ten per cent of the win purse. For the purpose of this rule "win purse" means the amount paid the winning horse less the fees paid by the owner to enter the horse in the race. *Effective: 1-1-85; 1-1-01; 9-24-15*

### 3769-7-30. Must pay losing fee

If any owner or trainer engages more than one jockey for the same race, they shall pay the losing fee for each jockey thus engaged who does not ride in the race. *Effective: 1-1-85*

### **3769-7-31. Cutting of fees prohibited**

No jockey shall contract or agree to ride for anyone but their contract employer for a fee less than the rates prescribed in the rules of racing. *Effective: 1-1-85*

### **3769-7-32. Jockey suspension**

(A) If a jockey is suspended for any reason other than fraud or attempted fraud, he shall complete the day's engagements unless the stewards rule otherwise. A jockey under suspension in any state or foreign country shall not be permitted to ride and shall be denied access to the grounds during the period of their suspension.

(B) The stewards appointed for a race meeting shall immediately, prior to the commencement of that meeting, designate the stakes, futurities or futurity trials or other races in which a jockey will be permitted to compete, notwithstanding the fact that such jockey is technically under suspension for ten days or less for a riding infraction at the time the designated race is to be run.

(1) Official rulings for riding infractions of ten days or less shall state: "the term of this suspension shall not prohibit participation in designated races."

(2) A listing of the designated races shall be posted in the jockeys' room and any other such place deemed appropriate by the stewards.

(3) A suspended jockey must be named at time of entry to participate in any designated race.

(4) A day in which a jockey participated in only one designated race while on suspension shall count as a suspension day. If a jockey participates in more than one designated race on a suspension day his/her suspension shall be extended one day. *Effective: 1-1-85; 1-1-91*

### **3769-7-33. Valets**

(A) The permit holder shall provide and pay valets and/or assess the jockeys therefor.

(B) No valet is permitted to converse with the public, once the day's program has begun.

(C) No valet will be permitted outside the confines of the area required to perform their duties which are jockeys' quarters, paddock, winners' circle. *Effective: 1-1-85*

### **3769-7-34. No valets shall wager**

No valet shall wager for himself or anyone else on any race. Any valet who violates this rule may be penalized under the provisions of rule 3769-7-99 of the Administrative Code. *Effective: 1-1-85; 8-1-91*

### **3769-7-35. Payment of fines**

All fines imposed shall be paid to the stewards. Any person failing to pay a fine within forty-eight hours shall be automatically suspended and may be referred to the commission for further action. *Effective: 1-1-85; 8-1-19*

### **3769-7-36. Must pay own fine**

No person shall pay the fine of another. The stewards shall remit all the fine money to the commission. The commission may from time to time make disbursements from this account for any worthy purpose pertinent to racing. *Effective: 1-1-85; 8-1-19*

### **3769-7-37. Improper language**

If any licensed person uses improper language to any racing official or threatens any such official, or if any licensed

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 further action. *Effective: 1-1-85*

### **3769-7-38. Denied admission**

During the suspension of any licensed person, they may be denied admission to any part of the grounds. *Effective: 1-1-85*

### **3769-7-39. 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*

### **3769-7-40. Entry void**

If a person is suspended, ruled off or expelled, they shall not be qualified, as agent or otherwise, to subscribe for a race; to enter or to run any horse for themselves or anyone else. No horse which they own wholly or in part, or in the winnings of which they have an interest, or which is under their care, management, training or superintendence 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*

### **3769-7-41. Return money, prizes**

If any persons are suspended, ruled off or expelled for fraudulent practice in relation to a horse, wholly or in part their property, they shall return all money and prizes which such horse has fraudulently won. *Effective: 1-1-85*

### **3769-7-42. Appeal to commission**

(A) Any licensee fined, suspended, expelled or any other penalty imposed by any stewards' 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 stewards within forty-eight hours after notification of the ruling. Such forty-eight-hour period shall not include any day the stewards are not in attendance at their office. The commission may appoint a licensed attorney to hear such appeals. *Effective: 1-1-85; 4-1-88; 10-6-89; 8-1-91; 10-4-92; 6-15-19*

### **3769-7-43. Reciprocity**

(A) If a person or horse is suspended, expelled, ruled off, or otherwise ineligible, or if a person's license is revoked, or application for a license has been denied or if a person or horse is under any other current penalty pursuant to the rules of a racing authority of any other state or country, such person and/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 thoroughbred and/or quarter horses who hold current and valid thoroughbred or quarter horse licenses in any other state or racing jurisdiction which has

full reciprocity with 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*

#### **3769-7-44. Checks**

(A) In the event any person 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 issues a check to a permit holder for a jockey fee, entry fee or any other racing related matter and the check is returned for any reason, whoever issued said check shall be fined a minimum of fifty dollars and shall not be eligible to participate in racing until said check and fine have been paid in full. *Effective: 1-1-85; 4-3-86; 9-5-86; 4-1-88; 8-1-19*

#### **3769-7-45. 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 the 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 stewards, the stewards 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*

#### **3769-7-46. 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 stewards and the matter referred to the commission. *Effective: 1-1-85; 9-5-86*

#### **3769-7-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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 3769-8.  
DRUGS; DEATH OF HORSES**

<b>3769</b>	<b>HEADING</b>
8-01	Medication and testing
8-02	Trainer responsible for condition of horses
8-03	Who must be present when sample taken
8-04	Nerved horses
8-05	<del>Stimulation prohibited</del> -repealed
8-06	Controlled substances and narcotics prohibited
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8-09	Use of drugs prohibited
8-10	Trainer/vet responsible for reporting disease or death
8-11	Disposal of dead horse -- autopsy
8-99	Penalties commission may impose

**3769-8-01. 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)(b) of this rule.

(12) Nasogastric tube shall mean any tube which can be inserted through the nose of a horse.

(13) "Retained specimen" 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 detection levels 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 stewards. 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 stewards.

(2) A written certificate issued by the stewards 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 stewards 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) Once a horse has raced with furosemide, that horse must be administered furosemide every time it races for the next ninety days.

(b) 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 stewards, cease the use of furosemide. That horse shall not race with furosemide for at least thirty days.

(c) 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.

(d) 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.

(e) Aminocaproic acid may be present in a horse's body while it is participating in a race, subject to all the provisions of these rules.

(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 100 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 37 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) or (B)(3)(b) 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 30 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 3769-8-06, 3769-8-07 and 3769-8-09 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 state steward. 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 3769-8-06 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 state steward 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 stewards. In addition, stewards 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, stewards may order test samples be taken from horses for the purpose of analysis. Stewards 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 1 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 stewards. 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 furosemide, the 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 of 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 3769-7-45 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, stewards 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 stewards 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 fair.

(15) The stewards may fine any licensee who violates paragraphs (B)(1)(b), (B)(3)(a), (B)(3)(b), (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. Stewards 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 3769-7-45 of the Administrative Code, the horse shall be disqualified. Stewards 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 stewards determine that mitigating circumstances require imposition of a lesser penalty, they may impose the lesser penalty. If a majority of stewards 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, stewards 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.

Stewards 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 stewards 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 stewards 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 stewards shall issue an oral notice of said violation to the licensee. Should confirmatory tests verify the validity of such preliminary report the stewards 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 stewards shall issue an oral notice of said violation to the licensee. Should confirmatory tests verify the validity of such preliminary report the stewards 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), and (c) hereinabove, the stewards may consider the test levels reported by the commission laboratory in determining whether the licensee has violated paragraph (B)(3)(d) of this rule.

*(e) In addition to the penalties set forth in paragraphs (B)(18)(a) (B)(18)(a), (b) and (c) hereinabove, the stewards 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 rules 3769-2-26 (A)(4) and (A)(10), 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 stewards, 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 stewards, 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) Stewards 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. Stewards 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 state steward for use in a proceeding resulting from a positive test sample. Upon request, the veterinarian shall provide each record to the commission or state steward 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 stewards 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; 1-1-02; 6-7-02; 2-1-05; 1-8-0; 2-1-11*

### **3769-8-02. Trainer responsible for condition of horses**

(A) The trainer shall be the absolute insurer of, and responsible for, the condition of the horse 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 3769-8-01 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 3769-8-01 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 owners, 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 stewards 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 stewards, revoke or suspend any 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*

### **3769-8-03. Who must be present when sample 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 stewards, 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*

### **3769-8-04. Nerved horses**

(A) All horses that have been nerved shall be so designated on the front of the jockey club certificate 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 eligibility certificate. 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 3769-8-99 of the Administrative Code. *Effective: 9-5-86; 4-1-88*

### **3769-8-05. Stimulation prohibited**

Repealed. *Effective: 1-1-85; 7-1-99*

### **3769-8-06. 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 stewards in accordance with rule 3769-8-99 of the Administrative Code. *Effective: 1-1-85; 3-19-87*

### **3769-8-07. 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*

### 3769-8-08. Anesthetics prohibited

Repealed. *Effective: 1-1-85; 7-1-99*

### 3769-8-09. 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, riding 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, riding 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) Apprentice jockey;
- (2) Assistant starter;
- (3) Assistant trainer;
- (4) Dentist;
- (5) Exercise boy/girl;
- (6) Groom;
- (7) Horseshoer;
- (8) Jockey;
- (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) Outrider;
- (12) Owner;
- (13) Paddock judge;
- (14) Starter;
- (15) Steward;
- (16) Trainer;
- (17) Valet;
- (18) Veterinarian;
- (19) 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 state steward, secretary of the Ohio state racing commission, any member of the Ohio state racing commission, any investigator employed by the Ohio state racing 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 state steward, 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 by the commission.

(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 state steward with proof that he or she has voluntarily enrolled in a rehabilitation program approved by the Ohio state racing 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 Ohio state racing 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 state steward 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, college of veterinary science personnel, 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 3769-7-42 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: 10-15-85; 12-1-86; 3-29-87; 4-1-88; 9-16-88; 10-6-89; 8-1-91; 1-1-92; 8-1-94; 2-6-99*

**3769-8-10. Trainer, veterinarian responsible for reporting notice of disease or death**

(A) The trainer shall be absolutely responsible for reporting to the stewards 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 stewards 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 stewards 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 stewards when said horse is stabled on the premises of a permit holder. Said notice shall be given to the commission veterinarian or the stewards 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*

**3769-8-11. 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 steward 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 steward. *Effective: 5-5-86*

**3769-8-12. 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 stewards.

(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 rule:

(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 stewards hearing, if any, and shall be communicated only to the executive director of the commission, the state steward 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 rule. 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 stewards not more than forty-eight hours after the issuance of the ruling of the stewards. 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 stewards shall constitute 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*

**3769-8-99. Penalties commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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-. SHORT DISTANCE RACING**

**3769-9-01. Short distance racing**

In adopting rules of the Ohio state racing commission, it is not the intention of the commission that they shall conflict in any way with the Ohio Revised Code or the Ohio rules of racing. The rules of the commission shall govern short distance racing whenever applicable. When not applicable, the stewards may enforce rules of the "American Quarter Horse Association" or the applicable association rules of any other short distance racing breed so long as they are not inconsistent with the rules of the commission. *Effective: 1-1-85*

**3769-9-02. Less than one-half mile**

Short distance racing shall be for a distance of less than one-half mile. Quarter horse racing shall be conducted on a straightaway for a distance not to exceed one-quarter mile. However, horses participating in quarter horse racing may participate in other short distance racing. *Effective: 1-1-85*

**3769-9-03. Must be registered**

No horse shall be permitted to start in any race under the rules governing short distance racing unless duly registered by the "Jockey Club" or the "American Quarter Horse Association" or an association for other short distance racing breeds. *Effective: 1-1-85*

**3769-9-04. Must maintain position**

In any straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden or drifts out of its lane in such a manner that it interferes with or impedes another horse in any way, the stewards may declare a foul against the horse, the jockey or both. In such cases the horse may be disqualified and/or the jockey may be fined and/or suspended by the stewards. *Effective: 1-1-85*

**3769-9-05. Whip restrictions**

No whip shall be carried on any two-year old in a race on the straightaway until June first, and no whip shall be carried on any horse in any race when making a first start unless its use has been approved by the stewards. Thereafter, the decision as to when a horse is running true enough to permit the use of a whip shall be left to the discretion of the stewards. *Effective: 1-1-85*

**3769-9-06. Must qualify**

(A) All horses which have not raced at a recognized meeting within the six months next prior to any race in which said horse is sought to be entered shall be required to qualify in at least two trial races. All such horses must meet a qualifying time to be eligible for entry to race. At least two qualifying times will be set, one for two-year olds, and one for older horses by the stewards.

(B) The stewards for any reason may require a horse to run additional trial races. *Effective: 1-1-85*

**3769-9-07. Official chart form**

The quarter horse chart book shall be the official chart form for quarter horse racing. *Effective: 8-15-77; 1-1-85*

**3769-9-08. Official stud book**

The official stud book and registry of the "American Quarter Horse Association" shall be recognized as the sole official registry for quarter horses. *Effective: 1-1-84; 1-1-85*

**3769-9-09. Quarter horse development fund**

*Rescinded June 8, 2019*

**3769-9-99. Penalties the commission may impose**

(A) For a violation of any rule in this chapter and unless a rule specifically precludes the stewards from doing so, the stewards, 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 3769-20.  
RELOCATION OF  
RACETRACKS ELIGIBLE  
FOR VIDEO LOTTERY**

<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

**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*

#### **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*

#### **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*