

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 13 No change Rules 2014

Rule Number(s): 3769-13-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 99

Date: April 9, 2015

These rules are no-change rules and may be found by accessing the Commission's website at <http://www.racing.ohio.gov/pdfs/HarRul13.pdf>/ or through LAWriter at <http://codes.ohio.gov/oac/3769-13>

Rule Type:

<input type="checkbox"/> New	<input checked="" type="checkbox"/> 5-Year Review
<input type="checkbox"/> Amended	<input type="checkbox"/> Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

3769-13-01 allows four different types of wagering pools (win, place, show, and exotic) and describes how betting interests is determined and calculated

3769-13-02 outlines requirements for exotic wagering

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3769-13-03 requires permit holders to have a machine to record wagers called a totalizator and maintain a phone system and bells

3769-13-04 describes when wagering ends and machines lock for each race

3769-13-05 describes the number of entries required for the different pools and when pools may be canceled

3769-13-06 requires permit holders to post odds and actual wagering and provide this information to the commission after each race

3769-13-07 describes the requirements for mutuel clerks and the requirements for canceling mutuel tickets

3769-13-08 requires permit holders to maintain complete records of wagering for one year after the close of the meeting

3769-13-09 requires permit holders to pay minus pools using their commission and breakage from other pools and allows winning wagers in minus pools to be paid less

3769-13-10 describes procedures for handling overpayments and underpayments

3769-13-11 allows parimutuel manager to make an immediate decision and inform commission in the case of an emergency

3769-13-12 outlines calculations to determine winner of win, place, and show pools

3769-13-13 allows payment of the win pool to be paid to those who wagered on lower place horse if no one wagered on the first place horse

3769-13-14 allows payment of the place pool to be paid to those who wagered on lower place horses if no one wagered on the first or second place horses

3769-13-15 allows payment of the show pool to be paid to those who wagered on lower place horses if no one wagered on the first, second, or third place horses.

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3769-13-16 describes how payment to wagerers in the win pool will be calculated when two horses tie for first. This rule is not subject to CSI review, because there is not business impact.

3769-13-17 describes how payment to wagerers in the place pool will be calculated when two horses tie for first or second. This rule is not subject to CSI review, because there is not business impact.

3769-13-18 describes how payment to wagerers in the show pool will be calculated when two horses tie for first, second, or third. This rule is not subject to CSI review, because there is not business impact.

3769-13-19 outlines the procedures and calculation for the daily double pool in which bettors select two consecutive winners in separate races

3769-13-20 outlines the procedures and calculations for quinella wagering in which bettors select the first two horses to finish

3769-13-21 outlines the procedures and calculations for perfecta wagering in which bettors select the first two horses to finish, in order

3769-13-22 outlines the procedures and calculations for trifecta wagering in which bettors select the first three horses to finish, in order

3769-13-23 outlines the procedures and calculations for superfecta wagering in which bettors select the first four horses to finish, in order

3769-13-24 outlines the procedures and calculations for twin trifecta wagering in which wagers are taken in the same manner as the trifecta, but limited to two designated races

3769-13-25 outlines the procedures and calculations for tri-super wagering in which in the first designated race, the bettors select the first three horses to finish, in order, and then in the second designated race, the wagers select the first four horses to finish, in order

3769-13-26 outlines the procedures and calculations for twin-super wagering in which in the first designated race, the bettors select the first four horses to finish, in order, and then in the second designated race, the wagers select the first four horses to finish, in order

3769-13-27 outlines the procedures and calculations for win three pools in which wagers select the horse to finish first in three selected races

3769-13-28 outlines the procedures, calculations, and alternative methods for pick (n) pools in which bettors select the horse to finish first in a designated number of races

3769-13-30 outlines the procedures and calculations for quinella double and perfecta double wagering in which bettors select a quinella or perfecta in two consecutive races

3769-13-32 allows permit holders to run a telephone account and telephone wagering system and describes procedures for this system

3769-13-33 describes procedures to follow when data line transmission fails or when association underpays or overpays due to failure to commingle or inability to commingle funds

3769-13-34 outlines the procedures, calculations, and alternative methods for place pick (n) pool contest in which wagers select the horses to finish first or second in a designated number of races

3769-13-35 outlines the procedures and calculations for super high five wagering in which bettors select the first five horses to finish, in order

3769-13-36 outlines the procedures, calculations, and alternative methods for exacta (n) in which bettors select the first two horses to finish, in order, in a designated number of races

3769-13-37 outlines the procedures, methods, and calculations for pick (n) position (x) pools in which bettors select a designated number of horses to finish in order in a designated number of contests

3769-13-38 outlines the procedures and calculations for team wager pools in which bettors select a designated team in a designated number of races

3769-13-39 outlines the procedures and calculations for future wager pools in which bettors select the first place finisher in a designated contest

3769-13-40 outlines the procedure and calculations for fortune pick (n) contests in which bettors select the first place finisher in a designated number of contests

3769-13-99 gives two concurring judges or the Racing Commission the power to fine or suspend licenses for violation of the rules in this chapter; the person penalized may appeal the decision to the Racing Commission

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 3769.03

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

No, the commission is the only entity that regulates horse racing in Ohio.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The Commission is the only entity that regulates horse racing in Ohio. The Commission is charged with ensuring the integrity of horse racing in this state. Administrative Rules are promulgated pursuant to the Commission's statutory obligation to regulate this industry.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The protection of the wagering public by implementing minimum controls as to the conduct of parimutuel wagering has long been a primary responsibility of the Commission.

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

As these rules have been implemented for some time, the Commission believes the success of the regulation has been demonstrated; however, the Commission continues to monitor changes in the wagering landscape and reserves the ability to change rules to ensure appropriate regulation of parimutuel wagering

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

The primary stakeholders are the seven commercial permit holders who are required to implement and/or follow these rules pertaining to wagering. As these rules have been in existence, in their current form, for decades, the Commission voted to submit the rules at a public business meeting.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

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No input was received.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

As these are no change rules, no additional scientific data was used to develop the rule.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

No alternative regulations were considered as these rules have been in existence for several years and no changes were found to be warranted.

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

No, this area of regulation requires adherence by all permit holders to the same form of wagering and wagering devices to ensure consistency and competitive wagering at all facilities. This improves the protection of the public who place bets at these facilities and allows the Commission to perform appropriate oversight and regulation.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

As no other agency regulates parimutuel wagering in Ohio, no duplication would occur.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The regulations have been implemented for several years to all commercial tracks in Ohio.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The scope of the impacted business community includes the seven commercial race track permit holders in Ohio. Licensees may also be fined under the penalties for this chapter.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

In General

This BIA covers the thirty nine rules which make up Chapter 13 of OAC 3769. This chapter covers wagering at harness races. Therefore, the bulk of this chapter describes

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in detail the types of wagering which is allowed and the particulars as to how these are to be paid out. As a result, the business impacts are similar for multiple rules as the rules describe the same policy for multiple types of wagering.

- 13-01 In general, these rules mostly affect the wagering public. However, permit holders experience a business impact when wagering is limited because a percentage of the wagered money (called a deduction) goes to the permit holders. Theoretically, if these rules were not in place the permit holders could gain more money from the wagering public through more lucrative forms of wagering.

Equipment

Chapter 13 addresses equipment required for wagering which is paid for by the permit holders. Because this equipment is a cost of compliance, this cost is a business impact on permit holders. The following are business impacts:

- The cost of the electronic wagering system is a business impact on permit holders. This system is one unit and includes the wagering machines, totalizator equipment, bell system, wagering machine lock, and record of wagers. This equipment requirement is described in rules 13-02, 13-03, 13-04, and 13-08.
- 13-03 Permit holders must provide a separate phone system for the stewards.
- 13-06 and 13-19 Permit holders must display odds boards.
- 13-07 Mutuel tellers must be equipped with numbered stands and name tags.
- 13-32 Permit holders must staff and equip the telephone wagering system, should they choose to have one. They must also maintain all telephone conversations and account activity information. Account activity must be provided to the account holders each month.

Judges

Many rules address the judges/stewards duties at the race track. Two of the three judges hired for race days are paid by the permit holder. Therefore, the rules requiring judges to complete task are an adverse impact on the permit holders. The following are adverse impacts:

- 13-02 Judges must approve reasons for carryover not being distributed.
- 13-03 Judges must communicate with totalizator operator.
- 13-05 Judges can consent to foregoing a place and show pool. Judge can consent to the barring of wagering on a particular horse or entry.
- 13-19, 13-20, 13-21, 13-23 Judges have a duty to order horses withdrawn or excused. This duty is discussed in more detail in the chapter on officials.

Mutuel Department

Several rules address the actions of the mutuel department and the mutuel manager. These positions are paid by the permit holders. Therefore, rules requiring the manager or teller to comply are adverse impacts on the permit holders. The following are adverse impacts:

- 13-07 The mutuel manager supervise any cancelled tickets and write out an explanation for the commission for these cancellations.
- 13-11 The mutuel manager must make an immediate decision regarding emergency situations involving the operation of the department. They must inform the state judge and the commission of the decision and make a public announcement.
- 13-24 The department must determine monetary value of the first pool in twin trifecta wagering. When a horse is scratched late during this type of wagering the manager determines how much time will be allowed for wagerers to exchange their tickets.
- 13-25 The department must determine the monetary value of the tri-super ticket exchanged. When a horse is scratched late during this type of wagering the manager determines how much time will be allowed for wagerers to exchange their tickets.
- 13-26 The department must determine the monetary value of the twin-super ticket exchanged. When a horse is scratched late during this type of wagering the manager determines how much time will be allowed for wagerers to exchange their tickets.

Refunds

Many of the rules require the permit holders to refund money to the wagering public when certain circumstances occur. These circumstances include when the wagered horse is scratched or when no wagerer wins. This refund causes losses to the permit holders who normally take a percentage of the wagered money. These refund rules are 13-05, 13-12, 13-13, 13-14, 13-15, 13-19, 13-20, 13-21, 13-22, 13-23, 13-24, 13-25, 13-26, 13-27, 13-28, 13-30, 13-33, 13-34, 13-35, 13-36, 13-37, 13-38, 13-39, and 13-40. Similarly, when a minus pool occurs the permit holder must pay this minus pool out of the permit holder's commission under 13-09.

Reports to the Commission

In certain circumstances described in chapter 13, permit holders must report to or notify the commission. The following are impacts on business:

- 13-02 Permit holders must provide rules and explanations of experimental exotic pools. Also, permit holders must get approval from the commission for mandatory payouts.
- 13-10 Permit holders must report all underpayments to the commission.
- 13-19 Permit holders must report daily double wagering.
- 13-23, 13-24, 13-25, 13-26, 13-30 Permit holders must notify the commission if they are using a different name for the superfecta, twin trifecta, tri-super, twin-super, quinella double, or perfecta double.
- 13-28 Permit holders must ask for written approval from the commission for carryover, contribution, scheduling, formatting, and interest bearing accounts associated with pick (n) pools.
- 13-32 If the permit holder has a telephone wagering system, they must get approval from the commission before applying a reasonable service fee.
- 13-33 Permit holders must notify the commission of data line transmission failures and overpayments which cannot be covered by the escrow account. Also, permit holders must gain approval from the commission to use the escrow account.
- 13-34 Permit holders must get written approval from the commission for carryover, contribution, scheduling, formatting, suspension of wagering, and interest bearing accounts associated with place pick (n) pools.
- 13-35 Permit holders must get written approval for carryover, discontinuation, and interest bearing accounts associated with super high five wagering.
- 13-36 Permit holders must get written approval from the commission for carryover, scheduling, formatting, and interest bearing accounts associated with exacta (n) pools.
- 13-37 Permit holders must get written approval from the commission for scheduling, formatting, minor shares, method used, apportioning, carryover, and mandatory distribution associated with pick (n) position (x) pools.
- 13-38 Permit holders must get approval from the commission for double wager methods, apportioning, and brackets associated with team wager pools.
- 13-39 Permit holders must get written approval from the commission for future wager pools.
- 13-40 Permit holders must get written approval from the commission for fortune pick (n) contests. Also, permit holders must request permission to distribute fortune pick (n).

Public Announcements

- 13-02 Permit holders must make the method used in determining mandatory payouts to be available to the public.

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- 13-05 Permit holders must make public announcement regarding the barring of horses.
- 13-10 Permit holders must make a public announcement regarding errors in payment.
- 13-19 Permit holders must announce to the public the possible payoff prices.
- 13-24, 13-25, 13-26 Permit holders must inform the public about an exception to mandatory distributions.
- 13-27 Permit holders must make a public announcement about the possible winning three combinations.

Fines and Penalties

3769-13-99 The business impact of this rule is the potential fines or suspensions for permit holders and licensees.

c. Quantify the expected adverse impact from the regulation.

In general

The amount a permit holder could make if the rules were not restricted to certain types of wagering is unquantifiable because the premise is hypothetical. In theory, they could increase revenue under more liberal rules.

Equipment

- 13-02, 13-03, 13-04, and 13-08 The wagering system cost about \$1,500 per day to lease or about \$200,000 to buy.
- 13-03 A separate phone system for stewards cost a few hundred per year.
- 13-06 and 13-19 Odds boards cost about \$75,000.
- 13-07 Numbering stands and creating name tags cost a few dollars per employee.
- 13-32 The telephone wagering system cost \$250 to staff and equip each day.
This cost also includes the cost to maintain telephone conversation records. The account holders' information is already in the system and takes very little time to provide statements.

Judges

Judges hired by permit holders earn about \$150-\$200 per race day. Each of the tasks listed above for the judges only take a few minutes individually and may or may not be required depending on the circumstances. For example, no horse may need to be excused on a given race day.

Mutuel Department

Mutuel managers make about \$200 per race day. Tellers make about \$10 per hour. These tasks take up a large part of the managers' day, each task only takes a few minutes individually.

Refunds

Refunds largely depend on the size of the pool. Permit holders take about 18% of each pool and stand to lose that percentage if an entire pool is refunded or part of a pool is refunded. The payback of the minus pool could cost the permit holder tens of thousands of dollars.

Reports to the commission

All of these reports, notifications, or requests for approval take only a few minutes individually. However, when added up they may take the permit holders a few hours each race day. The amount of time can be determined by the permit holder depending on the types of pools and other circumstances determined by the permit holders.

Public Announcements

Public announcements are a routine part of the permit holders' business; therefore there is already a system in place to make these announcements. Each listed announcement will take only a few minutes.

Fines and Penalties

Fines cannot exceed \$10,000, but are generally less than that amount. Suspensions impact the permit holder or licensees' entire business and can cost them thousands more in lost income.

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

In general

The regulation of gaming in Ohio has long been one of stricter compliance and regulation due to the trust of the general public and protection of state wagering dollars. These restrictions are designed to insure the integrity of parimutuel wagering and promote fair standards between competing wagering facilities. Permit holders can submit experimental pool ideas to the commission to get around these rules.

Equipment

This equipment is all generally necessary to conduct horse racing and parimutuel betting. An accurate wagering system, a telephone system, odds boards, and numbered stands for the

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mutuel department all must be provided, but are typical for industry. The extra telephone wagering system is optional for the permit holders.

Judges

The judge's duties are necessary to maintain the integrity of the sport of racing. The wagering public is protected by the judge's actions.

Mutuel Department

This department directly interacts with the wagering public and insures that the wagers are handled fairly and consistently.

Refunds

In fairness to the wagering public, it is necessary to refund money in circumstances described. The wagering public is entitled to a return of money when their horse is scratched or there is no winner.

Reports to the commission

In order to regulate wagering effectively, the commission must be informed of all of the above reports and approve the above requests.

Public Announcements

The wagering public must be informed of these matters to accurately wager on horses.

Fines and Penalties

Fines and penalties act as a deterrent to licensees and permit holders. In order to regulate this industry, these rules must be enforceable through these penalties.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, this regulation applies to only seven commercial race track permit holders; therefore an exemption for small businesses is not applicable.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

R.C. 119.14 is not applicable.

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18. What resources are available to assist small businesses with compliance of the regulation?

The Commission website at www.racing.ohio.gov

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900

The Executive Director at bill.crawford@rc.state.oh.us