

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 6 No change Rules 2015 (Part 1)

Rule Number(s): 3769-6-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 25.1, 26, 27, 28, 29, 30, 31, 32, 33, 34

Date: October 26, 2015

These rules are no-change rules and may be found by accessing the Commission's website at <http://www.racing.ohio.gov/pdfs/TbredRul6.pdf> or through LAWriter at <http://codes.ohio.gov/oac/3769-6>.

Rule Type:

- ☐ New
☐ Amended

- ☒ 5-Year Review
☐ Rescinded

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

Regulatory Intent

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

3769-6-01 explains what is included in the definition of "winnings."

3769-6-02 defines "winnings during the year" as starting on January 1st.

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3769-6-03 defines “winner of a certain sum” as the winner of a single race of that value.

3769-6-04 describes how the net value of a race to the winner will be calculated.

3769-6-05 requires stake race winnings to be computed in the value of gross earnings.

3769-6-06 describes the calculation of a horse’s earnings in the case of a dead heat.

3769-6-07 requires horses entering claiming races to be subject to claims and gives claimant the responsibility to determine the age and sex of claimed horse.

3769-6-08 describes the licensing requirement for a person to be eligible to claim a horse.

3769-6-09 describes the procedures for securing and validating claims.

3769-6-10 instructs officials and employees of the permit holder not to release information about claims until after the race has finished.

3769-6-11 describes when ownership rights vest during a claiming race.

3769-6-12 requires horses in claiming races to be taken to a designated area or to the test barn.

3769-6-13 directs a penalty of a fine or suspension for refusal to deliver a horse claimed out of a claiming race.

3769-6-14 restricts new owners from selling claimed horses until 30 days after a claiming race and prohibits the previous owners from continuing to maintain the horse.

3769-6-15 restricts horses which are claimed in Ohio from being raced outside the state for a period of 60 days after the claiming race.

3769-6-16 allows claimed horses to be entered in subsequent claiming races for a price to be determined by the initial claimant.

3769-6-17 restricts persons from claiming their own horse and penalizes violators with a suspension and/or a ruling off.

3769-6-18 restricts agents from submitting more than one claim per race.

3769-6-19 prohibits agreements or intimidation which prevents others from claiming a horse.

3769-6-20 prohibits the entry of a horse into a claiming race which is subject to lawful claims without written consent of the person holding the lawful claim.

3769-6-21 permits stewards to require claimants to submit affidavits which state the claimant is claiming the horse for his own account or is an authorized agent.

3769-6-22 prohibits licensees from making a false ownership claim for a horse.

3769-6-23 requires jockeys to report to the scale room and then to the clerk of scales at a time designated by the officials.

3769-6-24 describes the procedures for Jockeys to weigh out prior to a race.

3769-6-25 requires persons to wear a safety helmet and vest while working out or racing a horse.

3769-6-25.1 requires horses to be equipped with safety reins.

3769-6-26 explains what equipment Jockeys must have and what equipment is included when Jockeys weigh out.

3769-6-27 makes the owner responsible for the weight the horse carries, but limits how many pounds overweight which will be allowed to be carried by any horse.

3769-6-28 requires a bugle to be sounded when the horses enter the track for a race and the track to be closed after all of the horses enter.

3769-6-29 describes the procedure for the horses from the time they enter the track until the start of the race.

3769-6-30 describes the procedures in place to ensure a fair start to the race, including empowering the starter to declare horses to be nonstarters or exclude horses from the pari-mutuel pools.

3769-6-31 requires at least eight starter's assistants to help load horses into the starting gate and prohibits abuse by these assistants toward the horses or the jockeys.

3769-6-32 requires the starter to designate the positions of the starter's assistants.

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3769-6-33 requires two or more outriders to be present at each racing meeting for all races.

3769-6-34 allows licensees to request a mounted attendant to lead their horse to the starting gate.

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

R.C. 3769.03

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

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

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

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

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

These regulations protect race participants and the wagering public by outlining the requirements for claiming and the requirement for starting.

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

These regulations have been in place for some time and the Commission believes the success of the regulation has been demonstrated.

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 claiming and starting. 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.

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

These rules were provided to the industry and comments were received for suggested changes. These are the rules which the commission chose not to change.

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, these regulations require permit holders, owners, trainers, and jockeys to follow a consistent set of rules for starting and claiming.

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

No measures were taken because no other agency regulate horse racing in Ohio, therefore no duplication will occur.

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

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

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 permit holders who own the race tracks and licensees who participate in horse racing in Ohio.

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

3769-6-01, 3769-6-02, 3769-6-03, 3769-6-04, 3769-6-05 These rules on their own do not have a business impact because they are only definitional or only describe how certain figures are calculated.

3769-6-06 The adverse impact of this rule is the loss of potential purse money for licensees.

3769-6-07 The adverse impact is the time required for licensees to make claims in writing and the time required for the claimant to determine the sex of the horse. The adverse impact for the permit holder is the cost of providing forms and envelopes.

3769-6-08 The adverse impact to a licensee is the cost of an owner or eligible to claim license or the cost to renew a license, and the cost of fingerprinting.

3769-6-09 The adverse impact to permit holders is the cost of a locked box and the time required to track the time and date of receipt of claim. The adverse impact to permit holders is the time required for stewards to certify the validity of claims and the time required for the racing secretary to authorize the delivery of horses.

3769-6-10 The adverse impact of this rule is limited to the potential for penalties for failure to follow this rule. This impact is addressed in 3769-6-99 (BIA Chapter 6, part II).

3769-6-11 The adverse impact of this rule is potential loss to a licensee of a claimed horse when there are multiple claimants. The adverse impact to permit holders is the time required for stewards to cast lots.

3769-6-12 The adverse impact to licensees is the time required to take the horses to the designated area or test barn after the race. The adverse impact to permit holders is the time for stewards to designate an area for horse to be taken after they are claimed and the time required for veterinarians to release horses.

3769-6-13 The adverse impact of this rule is the potential for fines, suspensions, and other penalties. This impact is addressed in 3769-6-99 (BIA Chapter 6, part II).

3769-6-14 The adverse impact of this rule is the limitation of a licensee's ability to sell a horse for a given period.

3769-6-15 The adverse impact of this rule is the limitation of the licensee's ability to race a horse in another state.

3769-6-16 This rule is permissive and therefore no business impact results.

3769-6-17 The business impact on a licensee is the cost of being ruled off, suspended, or facing other penalties. These other penalties are addressed in 3769-6-99 (BIA Chapter 6, part II). The business impact on the permit holders is the time required for stewards to suspend offenders.

3769-6-18 The business impact is the limitation on licensee's agents from submitting certain claims.

3769-6-19 The business impact is the potential suspension, fine, or other penalty for failure to follow this rule. These penalties are addressed in 3769-6-99 (BIA Chapter 6, part II).

3769-6-20 The business impact on licensees is the time required to file written consents and the potential for penalties. These penalties are addressed in 3769-6-99 (BIA Chapter 6, part II). The business impact to the permit holders is the time required for the racing secretary to take written consents from the licensees.

3769-6-21 The business impact on licensees is the time required to write an affidavit. The rule also mentions penalties, but these are addressed in 3769-6-99 (BIA Chapter 6, part II).

3769-6-22 The business impact on licensees is the potential for penalties which are addressed in 3769-6-99 (BIA Chapter 6, part II).

3769-6-23 The adverse impact on licenses is the time required for the jockey to report to the scale room and report the information required. The adverse impact to the permit holder is the time required for the clerk of scales to take reports from jockeys.

3769-6-24 The adverse impact on licensees is the cost of supplying a BETA compliant safety vest and the time required to weigh out after a race.

3769-6-25 The adverse impact on licensees is the cost of safety helmet, the safety vest, and the potential for penalties. These penalties are addressed in 3769-6-99 (BIA Chapter 6, part II). The adverse impact to permit holders is the time required for outriders to report violations and for stewards to penalize licensees.

3769-6-25.1 The adverse impact to licensees is the cost of safety reins.

3769-6-26 The adverse impact to licensees is the cost of the required jockey equipment. The adverse impact to permit holders is the time required for the clerk of scales to check whips.

3769-6-27 The adverse impact is the time for licensees to determine the correct weight for a horse to carry.

3769-6-28 The adverse impact to permit holders is the cost of a bugle and the time required for the stewards to close the track.

3769-6-29 The adverse impact to licensees is the time for jockeys to parade horses. The adverse impact to permit holders is the duty of the starter to supervise before the races.

3769-6-30 The adverse impact to licensees is the lost value of the race if determined to be a nonstarter and the time required to submit a written request to not have horses tonged or tailed. The adverse impact to permit holders is the cost of the starter and their assistants and the time required to ensure a fair start.

3769-6-31 The adverse impact to permit holders is the cost of eight starter's assistants per race day. The rule also mentions potential penalties which are addressed in 3769-6-99 (BIA Chapter 6, part II).

3769-6-32 The adverse impact to permit holders is the time required for the starter to designate assistants' positions.

3769-6-33 The adverse impact to permit holders is the requirement to hire at least two outriders.

3769-6-34 The adverse impact to licensees is the cost of using a mounted attendant should the licensee choose to request one. The adverse impact to permit holders is the cost of hiring a mounted attendant and the time required for stewards to give licensees permission to use them.

c. Quantify the expected adverse impact from the regulation.

3769-6-06 This impact can be in the thousands of dollars depending on the race and the horse.

3769-6-07 The time required for licensees to make claims in writing or determine the sex of a horse is a few minutes. The cost of providing forms and envelopes is a few cents per page.

3769-6-08 The cost of a license varies from \$25 to \$50. The cost of a completed fingerprint card is \$46.

3769-6-09 The locked box costs about \$50. Racing secretaries are paid about \$300 per day by permit holders. Stewards are paid about \$250 per day by permit holders. These duties require a few minutes per race from the racing secretary and the stewards.

3769-6-11 The cost to licensee of losing a claimed horse depends on the horse's value to the licensee. Horses can be claimed for thousands of dollars. The stewards may need to take a few minutes to cast lots.

3769-6-12 The time required to take horses to the designated area is a few minutes. If required to go to the test barn, horses must remain in the test barn for at least 1.5 hours. Permit holders pay stewards about \$250 per day. The duties of the stewards which are required in this rule only require a few minutes of the stewards' time. Veterinarians are paid about \$300 per day. This duty only requires a few minutes of their time.

3769-6-14 This impact is quantified by the potential lost value of selling the horse. Horses entered into a claiming race can be valued between \$5,000 and \$20,000.

3769-6-15 The impact depends on the race and the claiming price. Horses can be valued between \$5,000 and \$20,000 at a claiming race.

3769-6-17 The impact depends on the circumstances including the abilities of the person and the length of the suspension. Licensees could lose thousands of potential earnings. Permit holders pay stewards about \$250 per day. It takes a few minutes for stewards to suspend a licensee.

3769-6-18 This impact can cause a licensee to lose the value of a claimed horse. Claimed horses can be valued between \$5,000 and \$20,000.

3769-6-20 For licensees, the impact is a few minutes to file consents. Permit holders pay racing secretaries about \$300 per day. This duty takes a few minutes of their time.

3769-6-21 Licensees must spend about five minutes writing these affidavits.

3769-6-23 The time required for jockeys to report is a few minutes. Permit holders pay the clerk of scales about \$100 per day. Taking these reports is one of their main duties throughout the day.

3769-6-24 The safety vest cost about \$225. The time required to weigh out is a few minutes.

3769-6-25 The safety helmets cost \$125. As stated above, the safety vests cost \$225. Outriders are paid about \$75 per day. These reports take a few minutes. Stewards are paid \$250 per day and giving out penalties requires a few minutes of time.

3769-6-25.1 The cost of safety reins is about \$250.

3769-6-26 The required jockey equipment costs about \$1200. The clerk of scales is paid about \$100 per day. This duty takes a few minutes per jockey.

3769-6-27 The time required to determine weight is a few minutes.

3769-6-28 The cost of a bugle is \$500. Stewards are paid \$250 per day and this duty requires a few minutes per race.

3769-6-29 The time required to parade horses is a few minutes. This duty of the starter takes up much of the race day. Starters are paid about \$400 per day by the permit holders.

3769-6-30 Licensees could lose thousands if their horse is a nonstarter depending on the race. Written requests require only a few minutes. Starters are paid about \$400 per day and their assistants are paid about \$100. Ensuring a fair start is a large part of their duty each race day.

3769-6-31 As explained above, starter's assistants are paid about \$100 per day.

3769-6-32 Starters are paid about \$400 per day. This duty requires a few minutes per race.

3769-6-33 Outriders cost about \$75 per race day.

3769-6-34 Licensees must pay \$5 to use the mounted attendant. Permit holders pay the mounted attendant \$75. Mounted attendants are also outriders. The stewards spend only a few minutes granting permission to use the mounted attendants.

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

3769-6-06 This impact is justified because the rule ensures a fair outcome in the case of a dead heat in a race.

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3769-6-07 The adverse impact is justified because this rule allows a clear record of all claims which is important to determine the proper claimant.

3769-6-08 The adverse impact is justified because this rule reinforces the licensing rule and allows the OSRC to regulate racing effectively.

3769-6-09 The adverse impact is justified because this rule ensures the security of claims for licensees.

3769-6-11 The adverse impact is justified because this rule ensures fairness to all claimants in claiming races.

3769-6-12 The adverse impact is justified because this rule ensures fairness for wagers and claimants after the race in both testing and claiming horses.

3769-6-14 The adverse impact is justified because this rule ensures transparency in who is claiming a horse which contributes to the fairness of the claiming races.

3769-6-15 The adverse impact is justified because this rule ensures the fairness of claiming races.

3769-6-17 The adverse impact is justified because this rule ensures the fairness of claiming in claiming races.

3769-6-18 The adverse impact is justified because this rule ensures the fairness of claiming in claiming races.

3769-6-20 The adverse impact is justified because this rule protects other owners or people with claims on a horse.

3769-6-21 The adverse impact is justified because this rule ensures the fairness of claiming in claiming races.

3769-6-23 The adverse impact is justified because this rule ensures that the race is fair.

3769-6-24 The adverse impact is justified because this rule ensures the safety of race participants.

3769-6-25 The adverse impact is justified because this rule ensures the safety of race participants.

3769-6-25.1 The adverse impact is justified because this rule ensures the safety of race participants.

3769-6-26 The adverse impact is justified because the equipment protects the safety of race participants and the fairness of the sport.

3769-6-27 The adverse impact is justified because the rule ensures the fairness of the sport.

3769-6-28 The adverse impact is justified because the rule ensures the fairness of the sport.

3769-6-29 The adverse impact is justified because the rule protects the wagering public and protects the fairness of the start of each race.

3769-6-30 The adverse impact is justified because this rule ensures the fairness of the start of the race.

3769-6-31 The adverse impact is justified because this rule ensures the fairness of the start of the race.

3769-6-32 The adverse impact is justified because this rule ensures the fairness of the start of the race.

3769-6-33 The adverse impact is justified because this rule ensures the safety of race participants.

3769-6-34 The adverse impact is justified because this rule ensures the fairness of the start.

Regulatory Flexibility

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

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

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

R.C. 119.14 is not applicable.

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

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

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