



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio State Racing Commission

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Regulation/Package Title (a general description of the rules' substantive content):

Amended Chapter 2 rules

Rule Number(s): 3769-2-01 – 3769-2-30; 3769-2-32 – 3769-2-39; 3769-41 – 3769-2-43; 3769-2-99

Date of Submission for CSI Review: November 1

Public Comment Period End Date: November 8

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

Amended/ rules (FYR? Y)

Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

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

3769-2-01 The commission has the right to search certain areas.
3769-2-02 The commission may engage auditors to examine the permit holders' records.
3769-2-03 The procedure to adopt rules.
3769-2-04 Public notice of commission meetings.
3769-2-05 The jurisdiction of the commission.
3769-2-06 The commission rules supersede any conditions of the permit holder.
3769-2-07 The permit holder cannot give gifts to commission personnel.
3769-2-08 Application to conduct horse racing.
3769-2-09 Application for days to conduct horse racing.
3769-2-10 Each application to conduct horse racing must have a list of officials.
3769-2-11 Information that must be included in an application to conduct horse racing.
3769-2-11.1 Claims by a person against the permit holders' surety bond.
3769-2-11.2 The racing permit could be suspended if the permit holder does not have sufficient financial ability to conduct racing.
3769-2-12 The commission may grant a racing permit to a county fair. A totalizator company must be licensed.
3769-2-13 The racing permit must include certain information.
3769-2-14 The permit holders' enforcement obligations.
3769-2-15 The permit holders must post its racing permit.

3769-2-16 The permit holders' security requirements.

3769-2-17 The permit holder must provide records to the commission.

3769-2-18 Information that must be provided to obtain a license from the commission.

3769-2-19 All license applicants must submit their fingerprints every five years.

3769-2-20 The commission may require written testimony from two people before a license is issued.

3769-2-21 The Commission's restrictions to obtain a license.

3769-2-23 License qualifications for a trainer, assistant trainer and a horseshoer.

3769-2-24 Licensee fees.

3769-2-25 Only one license is required of licensees who are performing the same function at thoroughbred, harness or quarter horse meetings.

3769-2-26 The commission may refuse to grant, may revoke or may suspend any license.

3769-2-27 A license is required to participate in horse racing.

3769-2-28 Limits on drinking by permit holders' employees.

3769-2-29 A licensee can be disciplined for fraudulent or improper practice.

3769-2-30 Other conditions where a permit holder or licensee could be sanctioned.

3769-2-32 The procedure to request the commission to act against a licensee under the financial responsibility rule.

3769-2-33 This rule discusses the unrestricted competitive bidding procedures pursuant to 3769.20 and 3769.08.

3769-2-35 All simulcast races on which pari-mutuel wagering is conducted by a permit holder shall be in accordance with the rules' conditions and/or restrictions.

3769-2-36 Unless a rule is specifically exempt from enforcement on the premises of a satellite facility, all commission rules shall apply to any satellite facility in the same manner such rules apply to a commercial permit holder.

3769-2-37 Definitions which apply to 3769-2-37 thru 3769-2-41.

3769-2-38 Procedures for accessing confidential personal information.

3769-2-39 Valid reasons for accessing confidential personal information.

3769-2-41 Restrictions to accessing confidential personal information in commission information systems.

3769-2-42 The procedures for reciprocal licenses with the Ohio Lottery.

3769-2-43 The procedures for the commission to determine distribution percentage of video lottery terminal income.

3769-2-99 The penalties the commission may impose.

3. Please list the Ohio statute(s) that authorize the agency, board, or commission to adopt the rule(s) and the statute(s) that amplify that authority.

a. 3769.03

4. 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?

a. No, it is not part of any federal program.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.
 - a. N/A
6. 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)?
 - a. These rules ensure fair and safe racing.
7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?
 - a. These rules have been in place for some time and the Commission believes the success of these rules has been demonstrated.
8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.
 - a. The primary stakeholders are the seven commercial permit holders and members of the horsemen's associations who are required to implement and/or follow these rules.
10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?
 - a. These rules were provided to the industry for comments, and their comments were integrated into the revisions. The Commission does not believe that these rules need to be changed.
11. 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?
 - a. No additional scientific data was used to develop these rules.
12. 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?
 - a. No alternative regulations were considered as these rules have been in existence for several years.

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

- a. No other agency regulates horse racing in Ohio; therefore, no duplication will occur.

14. 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.

- a. The Commission has employees at all commercial tracks to ensure compliance with these rules.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. **Identify the scope of the impacted business community,**
 - i. The scope of the impacted business community includes the seven-commercial permit holders in Ohio and the licensees associated with horse racing;. **and**
- b. **Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.)**

3769-2-01 If a person refuses to consent to searches as described in this rule, they are automatically suspended. The person could be fined and/or suspended.

3769-2-02 The permit holder would have to make the books and records available to the commission auditors.

3769-2-03 There is no adverse impact.

3769-2-04 There is no adverse impact.

3769-2-05 There is no adverse impact.

3769-2-06 There is no adverse impact.

3769-2-07 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked

3769-2-08 The permit holder must take some time to collect information and to complete the application.

3769-2-09 The permit holder must take some time to collect information and to complete the application.

3769-2-10 The permit holder must take some time to collect information and to complete the application. The commission may not approve an official.

3769-2-11 The permit holder must take some time to collect information and to complete the application.

3769-2-11.1 The permit holders' bond company may have to pay an aggrieved party.

- 3769-2-11.2 The permit holders' license could be suspended if it does not have sufficient financial ability.
- 3769-2-12 The agricultural society must obtain a license to conduct horse racing. A totalizator company must obtain a license. The agricultural society could be fined or suspended for not following the rules of racing.
- 3769-2-13 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-14 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked. The racing permit could be denied or revoked
- 3769-2-15 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-16 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-17 The permit holder must furnish records.
- 3769-2-18 The licensee must fill out an application and pay a license fee.
- 3769-2-19 A license applicant must submit fingerprints to the commission.
- 3769-2-20 An applicant may have to secure written testimony of two individuals.
- 3769-2-21 An applicant may not be able to obtain a license, or their license could have conditions.
- 3769-2-23 A license applicant may not meet qualification requirements.
- 3769-2-24 A license applicant must pay a license fee.
- 3769-2-25 No adverse impact.
- 3769-2-26 The licensee could be fined or suspended for not following this rule. The applicant may not receive a license.
- 3769-2-27 A person could be denied a license. The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked
- 3769-2-28 The permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked.
- 3769-2-29 A licensee could be fined or suspended for not following this rule.
- 3769-2-30 A licensee and/or permit holder could be fined or suspended for not following this rule. The racing permit could be denied or revoked.
- 3769-2-32 A person must pay a financial responsibility fee.
- 3769-2-33 A permit holder may not receive a tax abatement.
- 3769-2-35 The permit holder and/or a person could be fined or suspended for not following this rule.
- 3769-2-36 The permit holder could be fined or suspended for not following this rule.
- 3769-2-37 There is no adverse impact.

3769-2-38 There is no adverse impact.
3769-2-39 There is no adverse impact.
3769-2-41 There is no adverse impact.
3769-2-42 The applicant needs a license.
3769-2-43 The permit holder could be required to pay a higher percentage.
3769-2-99 The commission may issue a fine or suspension. A license or permit may be denied or revoked.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify.

No

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

3769-2-01 The commission needs to search to find violations of the rules of racing.
3769-2-02 The commission needs to ensure that the permit holder has the financial ability to conduct horse racing.
3769-2-03 There is no adverse impact.
3769-2-04 There is no adverse impact.
3769-2-05 There is no adverse impact.
3769-2-06 There is no adverse impact.
3769-2-07 The adverse impact is justified to ensure the integrity of racing.
3769-2-08 The rule complies with 3769.04.
3769-2-09 The Commission needs race dates to comply with 3769.089 and 3769.0810.
3769-2-10 The adverse impact is justified to ensure the integrity of racing.
3769-2-11 The adverse impact is justified to ensure the integrity of racing.
3769-2-11.1 The adverse impact is justified to ensure the integrity of racing.
3769-2-11.2 The adverse impact is justified to ensure the integrity of racing.
3769-2-12 The adverse impact is justified to ensure the integrity of racing.
3769-2-13 The adverse impact is justified to ensure the integrity of racing.
3769-2-14 The adverse impact is justified to ensure the integrity of racing.
3769-2-15 Law enforcement and the public need to know if this location has a permit.
3769-2-16 The permit holders must have a safe location to conduct horse racing.
3769-2-17 The Commission needs to ensure that the permit holder is complying with the law and Commission rules.

3769-2-18 The adverse impact is justified to ensure the integrity of racing.

3769-2-19 R.C. 3769.03 requires applicants for commission license to be fingerprinted.

3769-2-20 The adverse impact is justified to ensure the integrity of racing.

3769-2-21 The adverse impact is justified to ensure the integrity of racing.

3769-2-23 The adverse impact is justified to ensure the integrity of racing.

3769-2-24 The license fees help offset the cost for a license. The fees have not been increased for several years.

3769-2-25 The adverse impact is justified to ensure the integrity of racing.

3769-2-26 The adverse impact is justified to ensure the integrity of racing.

3769-2-27 The adverse impact is justified to ensure the integrity of racing.

3769-2-28 The permit holders' employees should not be drinking while horse racing is being conducted.

3769-2-29 The adverse impact is justified to ensure the integrity of racing.

3769-2-30 The adverse impact is justified to ensure the integrity of racing.

3769-2-32 The fee offsets the cost to process the request.

3769-2-35 The permit holders' and the betting public need a consistent system for super high five wagering.

3769-2-33 The rule clarifies R.C. 3769.20.

3769-2-35 The commission needs to control the simulcast of horse races.

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3769-2-36 The adverse impact is justified to ensure the integrity of racing at these satellite facilities.

3769-2-37 There is no adverse impact.

3769-2-38 There is no adverse impact.

3769-2-39 There is no adverse impact.

3769-2-41 There is no adverse impact.

3769-2-42 The commission needs an orderly system for licensee with the Ohio Lottery.

3769-2-43 The commission is required by R.C. 3769.087.

3769-2-99 The permit holders need to know possible penalties the commission may impose.

Regulatory Flexibility

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

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

19. 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?

- a. R.C. 119.14 is not applicable.

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

- a. The Commission website is www.racingohio.net
- b. The Commission phone number is 614-466-2757
- c. The Commission facsimile number is 614-466-1900
- d. Contact Deputy Director: Tanya.Boulmetis@racing.ohio.gov