

CALIFORNIA HORSE RACING BOARD - RULES NOTICED TO THE PUBLIC:

NOTIFICATION OF CHANGE OF DATE AND LOCATION OF REGULATORY HEARING FOR THE PROPOSED AMENDMENT OF RULE 1685. EQUIPMENT REQUIREMENT

Pursuant to the requirements of Government Code section 11346.8 subdivision (b) of the California Code of Regulations, the California Horse Racing Board is providing notice that the proposed adoption of Rule 1685, Equipment Requirement, will be the subject of a regulatory hearing on **Friday, January 15, 2010, at the Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California, at 9:30 a.m.**, or as soon thereafter as the business before the Board will permit. The regulatory hearing was originally scheduled for Thursday, January 14, 2010, at CHRB Headquarters, 1010 Hurley Way, Suite 300, Sacramento, California, at 9:30 a.m., but the date and location have been changed.

NOTICE OF PROPOSAL TO AMEND RULE 1685. EQUIPMENT REQUIREMENT

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1685, Equipment Requirement, to change the specifications for the type of whip that may be used in flat racing.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, January 14, 2010**, or as soon after that as business before the Board will permit, at the **California Horse Racing Board Headquarters Office, 1010 Hurley Way, Suite 300, Sacramento, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representatives, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on January 11, 2010**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397

Fax: (916) 263-6022

E-Mail: haroldc@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions Code.

Reference: Sections 19441.2 and 19481, Business and Professions Code.

Business and Professions Code sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19441.2 and 19481, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that the Board shall have jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Chapter 4, Business and Professions Code. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19441.2 states in its annual report required under section 19441, the Board shall include recommendations concerning the worker safety impacts of improvements in jockey equipment. Business and Professions Code section 19481 provides that in performing its responsibilities, the Board shall establish safety standards governing equipment for horse and rider.

The Jockeys' Guild (Guild) and other industry representatives requested that the Board amend its regulations governing whips to approve the use of a "kinder" alternative whip. While the current CHRB rules on the use and construction of whips are designed to prevent abuses, the Guild representatives explained that the newly designed whip would take another step to promote the health and safety of racehorses. The alternative whip was described as being "kinder" to horses due to its materials and construction. The most notable difference between traditional whips and the alternative whip was the addition of a softer, padded material on the tip that was rounded without hard edges. The whip was described as "equine friendly" and the Guild representative stated it was preferred by most jockeys.

The Board proposes to amend Rule 1685 to define the allowable whips used in flat racing. A new subsection 1685(b) states whips allowed for use in flat racing shall be unaltered from the original manufacturer. This is to prevent jockeys from using whips that originally complied with the standards set forth in Rule 1685, but that have been altered. The only reason to alter a whip would be to circumvent the Board's requirements to gain an advantage. Subsection 1685(b) also stated a whip shall be no longer than 30 inches and weigh no more than 8 ounces. The required weight has not changed, as Rule 1685 currently states a whip may not weigh more than one half pound. The length has been amended to a maximum of 30 inches. This is in accordance with the length of flat racing whips recommended in the Association of Racing Commissioners International model rule, and it is only one inch shorter than the whip currently specified in Rule 1685.

A new subsection 1685(b)(1) states that the minimum diameter of the whip shall be 0.5 inches, with a smooth, padded contact area, and no protrusions or raised surfaces. The half inch width makes the whip less flexible, which causes the rider to rely more on the flap or "popper," so it is the sound made by the flap that causes the

whip to be effective, rather than any pain inflicted by the whip striking the horse. A padded shaft with no protrusions will also not cause injury should the shaft come into contact with the horse. Some traditional whips have “feathers” on the end of the shaft where they may come into contact with the horse. These “feathers” are usually made of leather and because they are flexible they could sting the horse and/or possibly leave welts.

Subsection 1685(c) states the only allowed attachment to the shaft is the flap, or popper, which shall not extend more than one inch beyond the shaft. This configuration decreases the flexibility of the flap so when it comes in contact with the horse it does not cause welts or pain, but instead makes a noise or “pop.” This is desirable because the noise made by the flap is what motivates the horse, rather than the physical sensation.

Subsection 1685(c)(1) describes the flap, or popper, which is attached to the shaft of the whip. The width of the flap shall be no less than 1 inch, or more than 1.5 inches, and it shall have a minimum length of 7 inches. The minimum circumference of the flap shall be 3 inches. This describes a flat, wide, smooth surface that is meant to make a popping noise when it comes in contact with the horse’s hindquarters. Subsection 1685(c)(1) states the flap shall have no reinforcements or additions beyond the end of the shaft, and no binding within 7 inches of the end of the shaft. This ensures that the flap will not have additions that may cause injury to the horse, and that the binding that connects the flap to the shaft will not decrease the flap’s width.

Subsection 1685(c)(2) describes the materials that may be used to make a flap. The flap shall have an inner layer consisting of memory foam, closed cell foam, or a similar shock-absorbing material, and an outer layer that is dark in color and made of a material that does not harden over time. These layers shall be folded over and sewn down each side. This creates a flap that gives and absorbs some of the shock when it hits the horse, so it is less likely to cause injury. A darker color for the outer layer makes the flap less likely to spook other horses. During the conduct of a race other horses will be within eyesight of the whip as it is used, and light colored flaps may cause problems. Whips currently authorized for use in California flat racing have flaps that are commonly made of a flat piece of leather. When new, such flaps may not cause injury to the horse; however, over time, the leather tends to harden and become brittle. It is the hard, brittle leather that causes injury to the horse. Subsection 1685(c)(2) requires that the flap material not harden over time, which will result in fewer injuries to the horse.

All other changes to Rule 1685 are for the purposes of clarity and consistency.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1685 will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1685 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1685 does not affect small businesses because horse racing is not a small business under Government Code section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
E-mail: haroldc@chr.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden, Regulation Analyst
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF STATEMENT OF REASONS:

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 1685. EQUIPMENT REQUIREMENT.

SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment to Rule 1685, Equipment Requirement, changes the specifications for the type of whip that may be used in flat racing in the State of California.

NECESSITY

The Board proposes to amend Rule 1685 to define the allowable whips used in flat racing on California racetracks. A new subsection 1685(b) states whips allowed for use in flat racing shall be unaltered from the original manufacturer. This is to prevent jockeys from using whips that originally complied with the standards set forth in Rule 1685, but that have been altered. The only reason to alter a whip would be to circumvent the Board's requirements to gain an advantage. Subsection 1685(b) also stated a whip shall be no longer than 30 inches and weigh no more than 8 ounces. The required weight has not changed, as Rule 1685 currently states a whip may not weigh more than one half pound. The length has been amended to a maximum of 30 inches.

This is in accordance with the length of flat racing whips recommended in the Association of Racing Commissioners International model rule, and it is only one inch shorter than the whip currently specified in Rule 1685.

A new subsection 1685(b)(1) states that the minimum diameter of the whip shall be 0.5 inches, with a smooth, padded contact area, and no protrusions or raised surfaces. The half inch width makes the whip less flexible, which causes the rider to rely more on the flap or “popper,” so it is the sound made by the flap that causes the whip to be effective, rather than any pain inflicted by the whip striking the horse. A padded shaft with no protrusions will also not cause injury should the shaft come into contact with the horse. Some traditional whips have “feathers” on the end of the shaft where they may come into contact with the horse. These “feathers” are usually made of leather and because they are flexible they could sting the horse and/or possibly leave welts.

Subsection 1685(c) states the only allowed attachment to the shaft is the flap, or popper, which shall not extend more than one inch beyond the shaft. This configuration decreases the flexibility of the flap so when it comes in contact with the horse it does not cause welts or pain, but instead makes a noise or “pop.” This is desirable because the noise made by the flap is what motivates the horse, rather than the physical sensation.

Subsection 1685(c)(1) describes the flap, or popper, which is attached to the shaft of the whip. The width of the flap shall be no less than 1 inch, or more than 1.5 inches, and it shall have a minimum length of 7 inches. The minimum circumference of the flap shall be 3 inches. This describes a flat, wide, smooth surface that is meant to make a popping noise when it comes in contact with the horse’s hindquarters. Subsection 1685(c)(1) states the flap shall have no reinforcements or additions beyond the end of the shaft, and no binding within 7 inches of the end of the shaft. This ensures that the flap will not have additions that may cause injury to the horse, and that the binding that connects the flap to the shaft will not decrease the flap’s width.

Subsection 1685(c)(2) describes the materials that may be used to make a flap. The flap shall have an inner layer consisting of memory foam, closed cell foam, or a similar shock-absorbing material, and an outer layer that is dark in color and made of a material that does not harden over time. These layers shall be folded over and sewn down each side. This creates a flap that gives and absorbs some of the shock when it hits the horse, so it is less likely to cause injury. A darker color for the outer layer makes the flap less likely to spook other horses. During the conduct of a race other horses will be within eyesight of the whip as it is used, and light colored flaps may cause problems. Whips currently authorized for use in California flat racing have flaps that are commonly made of a flat piece of leather. When new, such flaps may not cause injury to the horse; however, over time, the leather tends to harden and become brittle. It is the hard, brittle leather that causes injury to the horse. Subsection 1685(c)(2) requires that the flap material not harden over time, which will result in fewer injuries to the horse.

All other changes to Rule 1685 are for the purposes of clarity and consistency.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board relied on the ARCI Model Rule ARCI-010-035 Running The Race: A. Equipment in proposing the amendment of the regulation.

The adoption of Section 1685 has no significant adverse economic impact on small business.

The adoption of Rule 1685 has no significant adverse economic impact on business.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT

1685. Equipment Requirement.

~~(a) No bridle shall weigh more than two (2) pounds, nor shall any whip weigh more than one half (1/2) pound. No whip shall be used unless it has affixed to the end a looped "popper" made of leather or other material approved by the stewards, not less than one and one quarter (1 1/4) inches in width, and not over three (3) inches in length, and be "feathered" above the "popper" with not less than three (3) rows of "feathers" made of leather or other material approved by the stewards, each feather not less than one (1) inch in length. No whip shall exceed thirty one (31) inches in length.~~

(b) Whips allowed for use in flat racing shall be unaltered from the original manufacturer; shall have shaft and flap (popper); shall weigh no more than 8 ounces and shall not be more than 30 inches in length.

(1) The minimum diameter of the shaft shall be 0.5 inches, with a smooth, padded contact area, and no protrusions or raised surface.

(c) The only allowed attachment to the shaft is the flap (popper), which shall not extend more than 1 inch beyond the shaft.

(1) The flap (popper) shall have a width of not less than 1 inch, or more than 1.5 inches; shall have a minimum length of 7 inches; and a minimum circumference of 3 inches. The flap (popper) shall have no reinforcements or additions beyond the end of the shaft, and no binding within 7 inches of the end of the shaft.

NOTIFICATION OF MODIFICATION OF TEXT OF THE PROPOSED AMENDMENT OF RULE 1689, SAFETY HELMETS REQUIRED

Pursuant to the requirements of Government Code sections 11346.8(c), 11346.8(d), and 11347.1, and section 44 of Title 1 of the California Code of Regulations, the California Horse Racing Board (Board) is providing notice of changes made to the text of the proposed amendment of Rule 1689, Safety Helmets Required.

The proposal to amend Rule 1689 was originally noticed to the public on December 4, 2009. The Board held a public hearing for adoption on February 19, 2010. In response to comments received during the 45-day public notice and during the regulatory hearing, the text of Rule 1689 was subsequently changed. Language was added to include any person mounted on a horse on the racetrack to the list of individuals required to wear a safety helmet. Subparagraph (a)(2) was also added to provide a definition of "racetrack" for clarification purposes.

Any interested person may submit a written statement relating to the modified ~~Double Strikethrough~~ and the Double Underlined language during the 15-day public comment period from **March 17, 2010, through April 1,**

2010. The written comment period will close at **5:00 p.m. on April 1, 2010.** However, written comments may still be submitted at the public hearing. Submit written comments to:

Colleen Germek, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

All written comments received by the CHRB by **5:00 p.m. April 1, 2010**, which pertain to the ~~Double Strikethrough~~ and the Double Underlined changes to the text, will be reviewed and responded to by the Board's staff as part of the completion of the rulemaking file. *Please limit your comments to the changes to the text that are indicated by ~~Double Strikethrough~~ and Double Underlined.*

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, April 15, 2010**, or as soon after that as business before the Board will permit, at the **Santa Anita Park Race Track, 285 West Huntington Drive, Arcadia, California.** At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in this notice. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

Questions concerning the proposed amendment may be addressed to Colleen Germek at (916) 274-6049, or at colleeng@chr.ca.gov, or at the address above. If Colleen Germek is not available, questions concerning the proposed amendment may be directed to Harold Coburn at (916) 263-6000.

PROPOSED TEXT AMENDMENT OF RULE 1689, SAFETY HELMETS REQUIRED

Single Underlined text represents the original language as noticed to the public on December 4, 2009.

Deletions to the noticed text appear as ~~Double Strikethrough~~ and new text appears as Double Underlined.

1689. Safety Helmets Required.

(a) A racing association, fair, or authorized training facility may not permit any person to be mounted on a horse on the racetrack gallop or pony a horse, to ride a horse in a race, or be mounted in or riding on a sulky, or work as a member of the gate crew unless the person is wearing a properly fastened safety helmet.

(1) For purposes of this regulation, a member of the gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate.

(2) For purposes of this regulation, "racetrack" means the surface of the racing or training track.

(b) Safety helmets required under subsection (a) of this rule shall comply with one of the following product standards:

(1) American Society for Testing Materials (ASTM) standard F-1163-04a, or

(2) European Norms (EN) standard 1384, or

(3) Australian and New Zealand Racing Boards (AS/ZN) standard 3838, or

(4) Snell Memorial Foundation (Snell) standard H2000.

Authority: Sections 19420 and 19440, Business and Professions Code.
Reference: Sections 19481 and 19460, Business and Professions Code.

**NOTICE OF PROPOSAL TO AMEND
RULE 1689. SAFETY HELMETS REQUIRED AND
RULE 1689.1. SAFETY VEST REQUIRED**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1689, Safety Helmet Required, to add any person working as a member of the gate crew to the list of those who must wear a safety helmet. The amendment also establishes new standards requiring that safety helmets comply with at least one of the following four product standards: American Society for Testing Materials (ASTM) standard F1163-04a, European Norms (EN) standard 1384, Australian and New Zealand Racing Boards (AS/ZN) standard 3838, and Snell Memorial Foundation (Snell) standard H2000.

The Board proposes to amend Rule 1689.1, Safety Vest Required, to add harness drivers and assistant starters to the list of those who must wear a safety vest and replace the outdated British Equestrian Trade Association (BETA) standard of level five to level one under the BETA 2009 standard for horse rider's safety vests. In addition, the Shoe and Allied Trade Association (SATRA) Jockey Vest product standard and the ASTM F2681-08 standard are incorporated in the regulation. The proposed amendment also prohibits the alteration of a safety vest from its original manufactured design.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, February 25, 2010**, or as soon after that as business before the Board will permit, at **the California Horse Racing Board Headquarters Office, 1010 Hurley Way, Suite 300, Sacramento, CA**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on January 18, 2010**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Colleen Germek, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825

Telephone: (916) 274-6049
Fax: (916) 263-6022
E-Mail: colleeng@chr.ca.gov

AUTHORITY AND REFERENCE

Rule 1689: Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Sections 19481 and 19460 Business and Professions Code.

Business and Professions Code sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19481 and 19460 Business and Professions Code.

Rule 1689.1: Authority cited: Sections 19420, 19481 and 19562, Business and Professions Code. Reference: Sections 19481, Business and Professions Code.

Business and Professions Code sections 19420, 19481 and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19481 Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control for horse racing and pari-mutuel wagering. Business and Professions Code section 19481 provides that in performing its responsibilities the Board shall establish safety standards governing the equipment for horse and rider to improve the safety of horses, riders and workers at the racetrack. Business and Professions Code section 19460 states that all licenses are subject to all rules, regulations, and conditions as prescribed by the Board. Business and Professions Code Section 19562 states the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in California.

Board Rule 1689, Safety Helmets Required, provides that a racing association may not permit any person to gallop or pony a horse, to ride a horse in a race or be mounted in or riding on a sulky unless the person is wearing a properly fastened safety helmet. Board Rule 1689.1, Safety Vest Required, requires jockeys and apprentice jockeys to wear safety vests when riding in a race. Additionally, the rule provides that jockeys, apprentice jockeys and exercise riders must wear a safety vest when they train or exercise any horse on the grounds of a racing association or racing fair. Rule 1689.1 currently specifies that such safety vests shall meet the level five rating of the British Equestrian Trade Association standard for horse riders' body and shoulder protectors.

The proposed amendments to Rules 1689 and 1689.1 were recommended by the California Horsemen's Safety Alliance (CHSA) and the horse racing industry. Currently, the Board does not require safety helmets to comply with a specific standard and, according to the CHSA, the level five BETA safety standard for vests currently prescribed by the Board is outdated. The CHSA contend the safety of individuals required to wear helmets and

vests may be compromised because they often do not wear products that meet current domestic or international safety standards. The addition of subsection (b) to Rule 1689 requires helmets comply with at least one of the following helmet safety standards specific to the equine industry: American Society for Testing Materials (ASTM) standard F1163-04a, European Norms (EN) standard 1384, Australian and New Zealand Racing Boards (AS/ZN) standard 3838, and Snell Memorial Foundation (Snell) standard H2000. Subsection (c)(1) of Rule 1689.1 removes the outdated level five BETA safety standard and adds the British Equestrian Trade Association (BETA) 2009 level one standard for horse rider's safety vests, Shoe and Allied Trade Association (SATRA) Jockey Vest product standard and the ASTM F2681-08 standard to the list of standards safety vests must comply. The safety standards for helmets and vests created by these organizations are recognized in both the American and international equine industry. Additionally, including multiple safety standards provides individuals a variety of products and price ranges from which to choose, while offering the same level of safety.

The proposed amendment to Rule 1689 also adds any person working as a member of the gate crew to the list of those who must wear a safety helmet and, for consistency purposes, includes fairs and authorized training facilities to the list of locations where the rule is enforced. A definition of gate crew is added to eliminate any misinterpretation of the provision. The proposed amendment to Rule 1689.1 adds harness drivers and assistant starters to the list of those who must wear a safety vest and, for consistency purposes, includes authorized training facilities to the list of locations where the rule is enforced. The proposed amendments help to ensure the safety of those most vulnerable to injury on the racetrack at facilities under the jurisdiction of the Board.

According to the CHSA, jockeys frequently modify their safety vests, removing padding to improve the fit and functionality. In addition, product tags seem to be routinely removed from safety vests. These modifications reduce the protective effectiveness of the safety vest and make it difficult to ensure the vest meets the standards set in Rule 1689.1. The addition of subparagraph (c)(4), prohibiting vests from being altered, will ensure the integrity of the equipment and allow for easier identification of the product for enforcement purposes.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rules 1689 and 1689.1 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rules 1689 and 1689.1 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rules 1689 and 1689.1 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Colleen Germek, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 274-6049
E-mail: colleeng@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Harold Coburn, Regulation Analyst
Telephone: (916) 263-6397
E-mail: harolda@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Colleen Germek, or the alternative contact person at the address, phone number or e-mail address listed above.

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After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Colleen Germek at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Colleen Germek at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov

INITIAL STATEMENT OF REASONS

RULE 1689. SAFETY HELMETS REQUIRED; RULE 1689.1. SAFETY VEST REQUIRED.

SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment to Rule 1689, Safety Helmets Required, adds any person working as a member of the gate crew to the list of those who must wear a safety helmet. The amendment also establishes new standards requiring that safety helmets comply with at least one of the following four product standards: American Society for Testing Materials (ASTM) standard F1163-04a, European Norms (EN) standard 1384, Australian and New Zealand Racing Boards (AS/ZN) standard 3838, and Snell Memorial Foundation (Snell) standard H2000.

The proposed amendment to Rule 1689.1, Safety Vest Required, adds harness drivers and assistant starters to the list of those who must wear a safety vest. It also changes the outdated British Equestrian Trade Association (BETA) standard of level five to level one under the BETA 2009 standard for horse rider's safety vests. In addition, the Shoe and Allied Trade Association (SATRA) Jockey Vest product standard and the ASTM F2681-08 standard are incorporated in the regulation. The proposed amendment also prohibits the alteration of a safety vest from its original manufactured design.

NECESSITY

Board Rule 1689, Safety Helmets Required, provides that a racing association may not permit any person to gallop or pony a horse, to ride a horse in a race or be mounted in or riding on a sulky unless the person is wearing a properly fastened safety helmet. Board Rule 1689.1, Safety Vest Required, requires jockeys and

apprentice jockeys to wear safety vests when riding in a race. Additionally, the rule provides that jockeys, apprentice jockeys and exercise riders must wear a safety vest when they train or exercise any horse on the grounds of a racing association or racing fair. Rule 1689.1 currently specifies that such safety vests shall meet the level five rating of the British Equestrian Trade Association standard for horse riders' body and shoulder protectors.

The proposed amendments to Rules 1689 and 1689.1 were recommended by the California Horsemen's Safety Alliance (CHSA) and the horse racing industry. Currently, the Board does not require safety helmets to comply with a specific standard and, according to the CHSA, the level five BETA safety standard for vests currently prescribed by the Board is outdated. The CHSA contend the safety of individuals required to wear helmets and vests may be compromised because they often do not wear products that meet current domestic or international safety standards. The addition of subsection (b) to Rule 1689 requires helmets comply with at least one of the following helmet safety standards specific to the equine industry: American Society for Testing Materials (ASTM) standard F1163-04a, European Norms (EN) standard 1384, Australian and New Zealand Racing Boards (AS/ZN) standard 3838, and Snell Memorial Foundation (Snell) standard H2000. Subsection (c)(1) of Rule 1689.1 removes the outdated level five BETA safety standard and adds the British Equestrian Trade Association (BETA) 2009 level one standard for horse rider's safety vests, Shoe and Allied Trade Association (SATRA) Jockey Vest product standard and the ASTM F2681-08 standard to the list of standards safety vests must comply. The safety standards for helmets and vests created by these organizations are recognized in both the American and international equine industry. Additionally, including multiple safety standards provides individuals a variety of products and price ranges from which to choose, while offering the same level of safety.

The proposed amendment to Rule 1689 also adds any person who works as a member of the gate crew to the list of those who must wear a safety helmet and, for consistency purposes, includes fairs and authorized training facilities to the list of locations where the rule is enforced. A definition of gate crew is added to eliminate any misinterpretation of the provision. The proposed amendment to Rule 1689.1 adds harness drivers and assistant starters to the list of those who must wear a safety vest and, for consistency purposes, includes authorized training facilities to the list of locations where the rule is enforced. The proposed amendments help to ensure the safety of those most vulnerable to injury on the racetrack at facilities under the jurisdiction of the Board.

According to the CHSA, jockeys frequently modify their safety vests, removing padding to improve the fit and functionality. In addition, product tags seem to be routinely removed from safety vests. These modifications reduce the protective effectiveness of the safety vest and make it difficult to ensure the vest meets the standards set in Rule 1689.1. The addition of subparagraph (c)(4), prohibiting vests from being altered, will ensure the integrity of the equipment and allow for easier identification of the product for enforcement purposes.

The remaining amendments to Rules 1689 and 1689.1 are for grammatical and format purposes only.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board relied on the following technical, theoretical, and/or empirical studies, reports on documents in proposing the amendment of the regulation.

ASTM Designation: F 1163-04a Standard Specification for Protective Headgear used in Horse Sports and Horseback Riding.

ASTM Designation: F 2681 – 08 Standard Specification for Body Protectors Used in Equine Racing.

Australian/New Zealand Standard: AS/NZS 3838:2006 Helmets for horse riding and horse-related activities.

Snell Memorial Foundation: 2000 Standard for Protective Headgear.

The adoption of Rules 1689 and 1689.1 has no significant adverse economic impact on small business.

The adoption of Rules 1689 and 1689.1 has no significant adverse economic impact on business.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESS.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

1689. Safety Helmets Required.

(a) A racing association, fair, or authorized training facility may not permit any person to gallop or pony a horse, to ride a horse in a race, or be mounted in or riding on a sulky, or work as a member of the gate crew unless the person is wearing a properly fastened safety helmet.

(1) For purposes of this regulation, a member of the gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate.

(b) Safety helmets required under subsection (a) of this rule shall comply with one of the following product standards:

(1) American Society for Testing Materials (ASTM) standard F-1163-04a, or

(2) European Norms (EN) standard 1384, or

(3) Australian and New Zealand Racing Boards (AS/ZN) standard 3838, or

(4) Snell Memorial Foundation (Snell) standard H2000.

Authority: Sections 19420 and 19440, Business and Professions Code.

Reference: Sections 19481 and 19460, Business and Professions Code.

1689.1. Safety Vest Required.

(a) No jockey or apprentice jockey shall ride in a race unless wearing a safety vest, nor shall a jockey, apprentice jockey, or exercise rider, train or exercise any horse on the grounds of a racing association, or racing fair, or authorized training facility unless wearing a safety vest. ~~Such safety vest shall:~~

(b) No driver shall be mounted in or riding on a sulky, nor shall an assistant starter handle any horse on the grounds of a racing association, racing fair, or authorized training facility unless wearing a safety vest.

(c) Safety vests required to be worn in accordance with this regulation shall:

(1) Provide a minimum of shock absorbing protection to the upper body, as evidenced by a label indicating that the safety vest meets one of the following standards: ~~of a five rating as defined by the British Equestrian Trade Association (BETA);~~

(A) “Level 1” under the British Equestrian Trade Association (BETA) 2009 Standard for Horse Riders’ Body and Shoulder Protectors, or

(B) American Society for Testing Materials (ASTM) standard F2681-08, or

(C) Shoe and Allied Trade Association (SATRA) Jockey Vest Document M6 Issue 3, Australian Racing Board (ARB) 3.

(2) Cover the entire torso from the ~~collar bone~~ collarbone to a line level with the hip bone allowing a vee opening in the front neckline;

(3) Weigh no more than 2 pounds.

(4) No vest shall be altered from its original manufactured design. This includes, but is not limited to:

(A) Cutting the vest to customize fit.

(B) Removal of manufacturer’s labels.

(C) Removal of protective padding.

~~(b)~~ (d) The weight of a safety vest shall not be included in the weight of a jockey or apprentice jockey when weighing out or weighing in or when adding weight to make up a weight assignment.

Authority: Sections 19420, 19481 and 19562, Business and Professions Code

Reference: Section 19481, Business and Professions Code