

CALIFORNIA HORSE RACING BOARD - RULES NOTICED TO THE PUBLIC:

**NOTIFICATION OF CONTINUANCE
OF REGULATORY HEARING
FOR THE PROPOSED AMENDMENT OF
RULE 1689. SAFETY HELMETS REQUIRED**

Pursuant to the requirements of Government Code Section 11346.8 (b) of the California Code of Regulations, the California Horse Racing Board is providing notice that the proposed adoption of Rule 1689, Safety Helmets Required, will be the subject of a regulatory hearing on **Thursday, May 20, 2010 at The Bayside Lounge (Turf Club) at Golden Gate Fields, 1100 Eastshore Hwy, Albany, California, at 10:30 a.m.**, or as soon there after as the business before the Board will permit.

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 and noticed to the public for a 15-day comment period from March 17, 2010 through April 1, 2010. The proposed amendment was heard on Thursday, April 15, 2010 and the hearing was continued to May 20, 2010 at The Bayside Lounge (Turf Club) at Golden Gate Fields, 1100 Eastshore Hwy, Albany, California.

Any interested person who has questions regarding this notice of continuance should contact

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

Phone: (916) 274-6049
E-mail: ColleenG@chr.ca.gov

**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@chrb.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@chr.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@chr.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.

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 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 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.

(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

NOTICE OF PROPOSAL TO AMEND RULE 1766. DESIGNATED RACES

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 1766, Designated Races. The proposed amendment provides that suspended jockeys or drivers, who participate in more than one designated race in California, or in one or more designated race in another jurisdiction while under suspension in California, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s).

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, July 22, 2010**, or as soon after that as business before the Board will permit, at the **Del Mar Simulcast Facility, Surfside Race Place, 2260 Jimmy Durante Boulevard, Del Mar, 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 at the hearing.

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 June 21, 2010**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations 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 19440 and 19460, Business and Professions Code.

Reference cited: sections 19460, 19461 and 19520, Business and Professions Code.

Business and Professions Code sections 19440 and 19460 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19460, 19461 and 19520 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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 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 19460 states all licenses granted under this chapter shall be in writing and are subject to all rules, regulations, and conditions from time to time prescribed by the Board. Business and Provisions Code section 19461 provides that every license granted under this chapter is subject to suspension or revocation by the Board in any case where the Board has reason to believe that any condition regarding it has not been complied with, or that any law, or any rule or regulation of the Board affecting it has been broken or violated. Business and Professions Code section 19520 states every person who participates in, or has anything to do with, the racing of horses shall be licensed by the Board pursuant to rules and regulations that the Board may adopt. No person required to be licensed by this article may participate in any capacity in any horse race meeting without a valid and unrevoked license authorizing that participation.

Rule 1766 requires the board of stewards appointed for a race meeting to designate certain races in which a jockey or driver who is under suspension for ten days or less may participate despite the fact that the jockey or driver is technically under suspension at the time the race is run. Designated races are typically those with a higher level of horse and larger purses.

Rule 1766 allows a jockey or driver who is under suspension for ten days or less to participate in one designated race on a particular day, and still have that day count as a day of suspension. This exception is granted because jockey/driver suspensions of ten or fewer days are usually the result of minor riding/driving infractions. Jockeys and drivers are often engaged for higher quality races well in advance of the race date, and preventing suspended jockeys or drivers from participating in such races may have the unintended effect of punishing one horse owner for a jockey's or driver's infraction committed while riding/driving another owner's horse. The exception also allows the jockey or driver the possibility of earning some income during his or her suspension. If jockeys or drivers do not participate in a race, they do not have the possibility of earning a fee. However, if a jockey or driver participates in more than one (California) designated race in one day, or one or more designated race in another jurisdiction, that day shall not count as a day of suspension. These caveats are meant to discourage suspended jockeys and drivers from taking advantage of the exception by participating in multiple designated races in a single day, or from simply leaving California to ride in out-of-state races.

In cases where the suspended jockey or driver participates in more than one designated race in a day, or one or more designated race in another jurisdiction, the board of stewards will issue a ruling suspending the jockey or driver for one additional day; in effect, the ruling states the day on which the jockey or driver will complete his or her original suspension.

Some have suggested that Rule 1766 allows jockeys and drivers to "pick and choose" the suspension days they serve. The typical race week runs Wednesday through Sunday. The long weekend – Friday through Sunday - attracts a larger fan base, so it may feature better races with higher purses. Conversely, Wednesdays and Thursdays often have fewer high quality races and lower purses. A jockey or driver who is on suspension Friday, Saturday and Sunday may decide to ride/drive in more than one designated race on Saturday with the expectation of serving an additional suspension day the following Wednesday or Thursday; the "bread and butter" days with less rewarding purses. The jockey/driver chose to take the chance of a bigger pay check on Saturday, with the penalty of not riding/driving on a day that might not offer such a high return. To prevent the actual or perceived manipulation of suspension days, the Board proposes to amend Rule 1766 by adding subsection 1766(h). The new subsection provides that jockeys and drivers who participate in more than one designated race in California, or who participate in one or more designated race in another jurisdiction, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s). This means the jockey/driver who rode/drove in more than one designated race on a Saturday, would complete his or her term of suspension the following Friday, Saturday or Sunday; days that tend to feature the same quality of races. The new subsection 1766(h) will also provide consistency throughout California. All boards of stewards issue rulings to add additional days of suspension for jockeys or drivers who participated in more than one designated race in California, or one or more designated race in another jurisdiction. However, not all boards of stewards would add an equivalent day; the practice varies from track to track. Subsection 1766(h) provides direction for boards of stewards and ensures all suspended jockeys/drivers will understand the consequences of when and where they choose to ride/drive in designated races.

DISCLOSURES 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 cost 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 to Rule 1766 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 impacts 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 to Rule 1766 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.

Affect on small businesses: none. The proposal to amend Rule 1766 does not have an effect on small businesses because it does not apply to small businesses. Rule 1766 requires that a suspended jockey or driver who participates in more than one designated race a day in California, or who participates in one or more designated race in another jurisdiction, shall serve a subsequent day of suspension on an equivalent day of the week following the day in which the jockey/driver participated in the designated race(s).

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it 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 to 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 PERSONS

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
Policy and Regulation Unit

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:

Colleen Germek, Regulation Analyst
Telephone: (916) 274-6049

AVAILABILITY OF 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 office, 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 alternate contact person, at the address, phone numbers, or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding the 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 regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

BOARD WEB SITE 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 1766, DESIGNATED RACES

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to amend Rule 1766, Designated Races. The proposed amendment provides that suspended jockeys or drivers, who participate in more than one designated race in California, or in one or more designated race in another jurisdiction while under suspension in California, shall complete their term of suspension on the equivalent day of the week following the day on which they participated in the designated race(s). This will address the actual/perceived manipulation of suspension days by suspended jockeys and drivers who may elect to ride in more than one California designated race, or in one or more designated race in another jurisdiction, on a day that could provide greater returns than the day on which they may serve an additional day of suspension.

NECESSITY

Rule 1766 requires the board of stewards appointed for a race meeting to designate certain races in which a jockey or driver who is under suspension for ten days or less may participate despite the fact that the jockey or driver is technically under suspension at the time the race is run. Designated races are typically those with a higher level of horse and larger purses.

Rule 1766 allows a jockey or driver who is under suspension for ten days or less to participate in one designated race on a particular day, and still have that day count as a day of suspension. This exception is granted because jockey/driver suspensions of ten or fewer days are usually the result of minor riding/driving infractions. Jockeys and drivers are often engaged for higher quality races well in advance of the race date, and preventing suspended jockeys or drivers from participating in such races may have the unintended effect of punishing one horse owner for a jockey's or driver's infraction committed while riding/driving another owner's horse. The exception also allows the jockey or driver the possibility of earning some income during his or her suspension. If jockeys or drivers do not participate in a race, they do not have the possibility of earning a fee. However, if a jockey or driver participates in more than one (California) designated race in one day, or one or more designated race in another jurisdiction, that day shall not count as a day of suspension. These caveats are meant to discourage suspended jockeys and drivers from taking advantage of the exception by participating in multiple designated races in a single day, or from simply leaving California to ride in out-of-state races.

In cases where the suspended jockey or driver participates in more than one designated race in a day, or one or more designated race in another jurisdiction, the board of stewards will issue a ruling suspending the jockey or driver for one additional day; in effect, the ruling states the day on which the jockey or driver will complete his or her original suspension.

Some have suggested that Rule 1766 allows jockeys and drivers to "pick and choose" the suspension days they serve. The typical race week runs Wednesday through Sunday. The long weekend – Friday through Sunday - attracts a larger fan base, so it may feature better races with higher purses. Conversely, Wednesdays and Thursdays often have fewer high quality races and lower purses. A jockey or driver who is on suspension Friday, Saturday and Sunday may decide to ride/drive in more than one designated race on Saturday with the expectation of serving an additional suspension day the following Wednesday or Thursday; the "bread and butter" days with less rewarding purses. The jockey/driver chose to take the chance of a bigger pay check on Saturday, with the penalty of not riding/driving on a day that might not offer such a high return. To prevent the actual or perceived manipulation of suspension days, the Board proposes to amend Rule 1766 by adding subsection 1766(h). The new subsection provides that jockeys and drivers who participate in more than one designated race in California, or who participate in one or more designated race in another jurisdiction, shall complete their term of suspension on the equivalent day of the week following the day on which they

participated in the designated race(s). This means the jockey/driver who rode/drove in more than one designated race on a Saturday, would complete his or her term of suspension the following Friday, Saturday or Sunday; days that tend to feature the same quality of races. The new subsection 1766(h) will also provide consistency throughout California. All boards of stewards issue rulings to add additional days of suspension for jockeys or drivers who participated in more than one designated race in California, or one or more designated race in another jurisdiction. However, not all boards of stewards would add an equivalent day; the practice varies from track to track. Subsection 1766(h) provides direction for boards of stewards and ensures all suspended jockeys/drivers will understand the consequences of when and where they choose to ride/drive in designated races.

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

The Board did not rely on any technical, theoretical, and/or empirical study, reports or documents in proposing the amendment of the regulation.

The amendment of Rule 1766 has no significant adverse economic impact on small business.

The amendment of Rule 1766 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 AMENDMENT

1766. Designated Races.

(a) The Board of Stewards appointed for a race meeting shall, immediately prior to the commencement of that meeting, designate the stakes, futurities or futurity trials or other races in which a jockey or a driver who is under suspension for ten ~~(10)~~ days or less for a riding or driving infraction will be permitted to compete, notwithstanding the fact that such jockey or driver is technically under suspension at the time the designated race is to be run.

(b) Official rulings for riding or driving infractions of ten ~~(10)~~ days or less shall state: "The term of this suspension shall not prohibit participation in designated races in California." However, the Board of Stewards may prohibit a jockey or a driver from participating in designated races if such jockey or driver has previously been suspended at least twice during the race meeting specified in subsection (a) of this rule.

(c) Prior to the commencement of a meeting, a listing of the races designated in accordance with subsection (a) of this rule shall be submitted in writing to the Board. A copy of the list of designated races shall be posted in the Jockey or Driver's Room, and any other such place deemed appropriate by the stewards.

(d) A suspended jockey or driver must be named at the time of entry to participate in any designated race.

(e) A day in which a suspended jockey or driver participates in one designated race in California shall count as a suspension day.

(f) A day in which a suspended jockey or driver participates in more than one designated race in California shall not count as a suspension day.

(g) Notwithstanding the above, a day in which a jockey or a driver participates in one or more designated races in another jurisdiction while under suspension in California shall not count as a suspension day.

(h) A jockey or driver who participates in more than one designated race under subsection (f) of this regulation, or in one or more designated race under subsection (g) of this regulation, shall complete his or her term of suspension on the equivalent day of the week following the day on which the jockey or driver participated in the designated race(s).

Authority: Section 19460, Business and Professions Code.
Reference: Sections 19460, 19461 and 19520, Business and Professions Code.