

CALIFORNIA HORSE RACING BOARD - RULES NOTICED TO THE PUBLIC:

CALIFORNIA HORSE RACING BOARD TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO ADD RULE 1927.1. TAMPERING WITH SMOKE DETECTORS PROHIBITED

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

PROPOSED REGULATORY ACTION

The proposed addition of Rule 1927.1 was first noticed to the public on August 3, 2012, but was withdrawn due to Office of Administrative Law (OAL) concerns regarding the proposed text. A modified regulation was subsequently noticed for a 15-day public comment period on July 1, 2013 and adopted by the Board at its July 18, 2013 Regular Meeting. Due to an administrative error, the deadline for resubmitting the file to OAL was missed. The Administrative Procedures Act does not allow the OAL to extend the period in which the rulemaking file may be resubmitted; therefore, the Board is providing a 45-day public notice of the addition of Rule 1927.1. The proposed text is identical to the text previously noticed for a 15-day public comment period. There have been no changes to the text of the regulation.

Rule 1927.1, Tampering With Smoke Detectors Prohibited, is divided into two subsections. Subsection 1927.1 (a) states the primary violation of tampering with smoke detectors and the associated fines. The fine amounts are defined as specific amounts in increasing steps dependent upon the number of times subsection (a) of the proposed rule is violated within a 365 day period; \$25 for the first offense within 365 days, \$50 for the second within 365 days, \$75 for the third within 365 days, \$100 for the fourth for more offense within 365 days. Subsection (b) covers the culpability of the trainers who are responsible for the employees that violate subsection (a). The fine maximums for violations of subsection 1927.1 (b) are also specific amounts in increasing steps dependant on the number of violations within a 365 day period; \$100 for the second offense within a 365 day period, \$200 for the third offense within a 365 day period, \$300 for the fourth offense within a 365 day period, and \$500 for the fifth or more offense within a 365 day period. The fines in subsection (b) are more than the fines in subsection (a) because the trainers' level of responsibility and their income are both greater than that of their employees.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, November 21, 2013**, or as soon after that as business before the Board will permit, at the **Bet Fair Hollywood Park Race Track, 1050 South Prairie Drive, Inglewood, 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 representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on November 4, 2013**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6026
Fax: (916) 263-6022
E-Mail: lturner@chr.ca.gov

AUTHORITY AND REFERENCE

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that 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 California Horse Racing Board. Business and Professions Code section 19440 states 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 include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering, and administration and enforcement of all laws, rules and regulations affecting horse racing and pari-mutuel wagering. Business and Professions Code section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations and conditions from time to time prescribed by the Board. Business and Professions Code section 19481 states that in performing its duties the Board shall establish safety standards governing track facilities in order to improve the safety of horses, riders and workers at the racetrack. Board Rule 1927, Fire Prevention, states association shall make adequate provision for fire prevention, protection against fire, and fire suppression within the inclosure. A reasonable standard of fire safety shall require that each building, barn or structure which is used by an association for the stabling of horses or human habitation, be equipped with an automatic sprinkler system and an automatic fire alarm system.

The Board proposes to add Rule 1927.1, Tampering With Smoke Detectors Prohibited. Subsection 1927.1 (a) states the primary violation of tampering with smoke detectors and the associated fines. The fine is defined as amounts in increasing steps dependent upon the number of times subsection (a) of the proposed rule is violated within a 365 day period; \$25 for the first offense within 365 days, \$50 for the second within 365 days, \$75 for the third within 365 days, \$100 for the fourth for more offense within 365 days. This subsection is necessary because fire safety is a continuing issue within the inclosure. The Board requires that racing associations

install and maintain sprinkler systems and fire alarms. Racing associations are also required to undergo annual fire inspections, and periodic safety inspections. The disabling of smoke detectors is a problem that occurs especially in habitable rooms used for sleeping. Under Rule 2103, Habitable Rooms, such rooms are required to be provided with battery operated smoke detectors that are maintained in working order, or any other approved fire alarm system. Occupants may wish to smoke where it is otherwise prohibited, or to cook on portable hot plates. To enable such activities, the smoke detectors may be disabled. Subsection (b) covers the culpability of the trainers who are responsible for the employees that violate subsection (a). The fine for violation of subsection 1927.1 (b) is also defined as amounts in increasing steps dependant on the number of violations within a 365 day period; \$100 for the second offense within a 365 day period, \$200 for the third offense within a 365 day period, \$300 for the fourth offense within a 365 day period, and \$500 for the fifth or more offense within a 365 day period. The Board has determined subsection 1927.1(b) is necessary in order to encourage trainers to pay attention to what their employees may be doing with fire safety equipment, as there are currently no repercussions for trainers whose employees routinely disable fire alarms. The Board believes that these fines, while not excessive, are enough to help deter and prevent future incidents.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed addition of Rule 1927.1 promotes the protection of worker, public, and equine safety. The regulation prohibits individuals from tampering with, dismantling, or disabling any automatic fire alarm system or smoke detector at facilities under the Board's jurisdiction or a fine will be imposed. Prohibiting such actions will aid in fire safety for workers and any horses located on the grounds of a California horse racing facility. Race horses are very valuable and their health and safety is of great importance to the industry. Also, if there is a race meeting or other event occurring at a facility, the rule protects the public attending by decreasing the chances of them being exposed to a fire. If individuals are following good fire safety practices on the grounds of the facilities, the chances of a fire is reduced, which in turn provides a feeling of safety in workers and the public. If individuals believe the horse racing facilities to be a safe environment, there could be an increase in attendance at the horse racing events. An increase in attendance may result in increased wagering, which in turn has a positive economic impact on the industry.

Consistency with Existing State Regulations: During the process of developing these regulations and amendments, The California Horse Racing Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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 addition of Rule 1927.1 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.

The following studies/relevant data were relied upon in making the above determination: none.

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 addition of Rule 1927.1 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. The jurisdiction of Rule 1927.1 is limited to the inclosures of racing associations and fairs, and as such only has an effect on horseracing and not any other type of California business. There are currently 703 licensed trainers and 2498 licensed grooms working in the California horseracing industry. With only 106 violations occurring within the fifteen month period of April 1, 2011 through June 16, 2012 the effect of higher fines on the horseracing industry will also be negligible. It is also possible the higher fines will lower the number of violations which would further limit the impact of this Rule. The proposed addition of Rule 1927.1 will benefit California by promoting the protection of worker, public, and equine safety. The regulation prohibits individuals from tampering with, dismantling, or disabling any automatic fire alarm system or smoke detector at facilities under the Board's jurisdiction or a fine will be imposed. Prohibiting such actions will aid in fire safety for workers and any horses located on the grounds of a California horse racing facility. Race horses are very valuable and their health and safety is of great importance to the industry. Also, if there is a race meeting or other event occurring at a facility, the rule protects the public attending by decreasing the chances of them being exposed to a fire. If individuals are following good fire safety practices on the grounds of the facilities, the chances of a fire is reduced, which in turn provides a feeling of safety in workers and the public.

Effect on small businesses: none. The proposal to add Rule 1927.1 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 by the Board, 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6026
E-Mail: ltturner@chrb.ca.gov

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

Harold Coburn,
Regulation Analyst
Telephone: (916) 263-6397

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 of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Leeland Turner, 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 regulations. Requests for copies of any modified regulation should be sent to the attention of Erica Ward 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 made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Erica Ward 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 1927.1. TAMPERING WITH SMOKE DETECTORS PROHIBITED.

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to add Rule 1927.1, Tampering With Smoke Detectors Prohibited, to provide that no licensee shall tamper with, dismantle, or disable any automatic fire alarm system or smoke detector that is located on the grounds of a facility under the jurisdiction of the Board. Rule 1927.1 is divided into two subsections. Subsection 1927.1 (a) states the primary violation of tampering with smoke detectors and the associated fines. The fine amounts are defined as specific amounts in increasing steps dependent upon the number of times subsection (a) of the proposed rule is violated within a 365 day period; \$25 for the first offense within 365 days, \$50 for the second within 365 days, \$75 for the third within 365 days, \$100 for the fourth for more offense within 365 days. Subsection (b) covers the culpability of the trainers who are responsible for the employees that violate subsection (a). The fine maximums for violations of subsection 1927.1 (b) are also specific amounts in increasing steps dependant on the number of violations within a 365 day period; \$100 for the second offense within a 365 day period, \$200 for the third offense within a 365 day period, \$300 for the fourth offense within a 365 day period, and \$500 for the fifth or more offense within a 365 day period. The fines in subsection (b) are more than the fines in subsection (a) because the trainers' level of responsibility and their income are both greater than that of their employees.

PROBLEM

Smoke detectors in the inclosure at facilities under the jurisdiction of the Board are often tampered with, which creates a safety issue for humans and equines in the area. Many smoke detectors are disabled in the habitable rooms by individuals who use the rooms to cook and smoke. For the period of April 1, 2011 through June 16, 2012, there had been 106 violations state wide of Rule 1928, Fire Regulations, for "tampering with smoke detector." The addition of Rule 1927.1, Tampering With Smoke Detectors Prohibited, would help deter individuals from tampering with the smoke detectors and reduce fire hazards by requiring a fine for both the employee who tampered with the smoke detector and for that employee's supervising trainer.

NECESSITY

The Board proposes to add Rule 1927.1, Tampering With Smoke Detectors Prohibited. Subsection 1927.1 (a) states the primary violation of tampering with smoke detectors and the associated fines. The fine is defined as amounts in increasing steps dependent upon the number of times subsection (a) of the proposed rule is violated within a 365 day period; \$25 for the first offense within 365 days, \$50 for the second within 365 days, \$75 for the third within 365 days, \$100 for the fourth for more offense within 365 days. This subsection is necessary because fire safety is a continuing issue within the inclosure. The Board requires that racing associations install and maintain sprinkler systems and fire alarms. Racing associations are also required to

undergo annual fire inspections, and periodic safety inspections. The disabling of smoke detectors is a problem that occurs especially in habitable rooms used for sleeping. Under Rule 2103, Habitable Rooms, such rooms are required to be provided with battery operated smoke detectors that are maintained in working order, or any other approved fire alarm system. Occupants may wish to smoke where it is otherwise prohibited, or to cook on portable hot plates. To enable such activities, the smoke detectors may be disabled. Subsection (b) covers the culpability of the trainers who are responsible for the employees that violate subsection (a). The fine for violation of subsection 1927.1 (b) is also defined as amounts in increasing steps dependant on the number of violations within a 365 day period; \$100 for the second offense within a 365 day period, \$200 for the third offense within a 365 day period, \$300 for the fourth offense within a 365 day period, and \$500 for the fifth or more offense within a 365 day period. The Board has determined subsection 1927.1(b) is necessary in order to encourage trainers to pay attention to what their employees may be doing with fire safety equipment, as there are currently no repercussions for trainers whose employees routinely disable fire alarms. The Board believes that these fines, while not excessive, are enough to help deter and prevent future incidents.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION.

The proposed addition of Rule 1927.1 promotes the protection of worker, public, and equine safety. The regulation prohibits individuals from tampering with, dismantling, or disabling any automatic fire alarm system or smoke detector at facilities under the Board's jurisdiction or a fine will be imposed. Prohibiting such actions will aid in fire safety for workers and any horses located on the grounds of a California horse racing facility. Race horses are very valuable and their health and safety is of great importance to the industry. Also, if there is a race meeting or other event occurring at a facility, the rule protects the public attending by decreasing the chances of them being exposed to a fire. If individuals are following good fire safety practices on the grounds of the facilities, the chances of a fire is reduced, which in turn provides a feeling of safety in workers and the public. If individuals believe the horse racing facilities to be a safe environment, there could be an increase in attendance at the horse racing events. An increase in attendance may result in increased wagering, which in turn has a positive economic impact on the industry.

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

The Board relied on two reports, "The listing of steward's rulings regarding fire safety violations for the period of April 1, 2011 through June 16, 2012" and "Current & Calendar Year 2011 & 2012 License Statistics."

The Board did not rely on any other technical, theoretical, and/or empirical study, reports or documents in proposing the addition of Rule 1927.1.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. The jurisdiction of Rule 1927.1 is limited to the inclosures of racing associations and fairs, and as such only has an effect on horseracing and not any other type of California business. There are currently 703 licensed trainers and 2498 licensed grooms working in the California horseracing industry. With only

106 violations occurring within the fifteen month period of April 1, 2011 through June 16, 2012 the effect of higher fines on the horseracing industry will also be negligible. It is also possible the higher fines will lower the number of violations which would further limit the impact of this Rule. The Problem of smoke detectors being tampered with is not a common issue; however, the effect of one fire not detected early would have an immeasurable impact on the horseracing industry.

Benefits of Proposed Regulation: The proposed addition of Rule 1927.1 will benefit California by promoting the protection of worker, public, and equine safety. The regulation prohibits individuals from tampering with, dismantling, or disabling any automatic fire alarm system or smoke detector at facilities under the Board's jurisdiction or a fine will be imposed. Prohibiting such actions will aid in fire safety for workers and any horses located on the grounds of a California horse racing facility. Race horses are very valuable and their health and safety is of great importance to the industry. Also, if there is a race meeting or other event occurring at a facility, the rule protects the public attending by decreasing the chances of them being exposed to a fire. If individuals are following good fire safety practices on the grounds of the facilities, the chances of a fire is reduced, which in turn provides a feeling of safety in workers and the public.

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

The Board has determined that no reasonable alternative it considered or that has otherwise been identified and brought its attention 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION.

The proposed addition to Rule 1927.1 was discussed at the April 11, 2012, Medication and Track Safety Committee meeting and the April 26, 2012, Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at either meeting. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
August 20, 2013

CALIFORNIA HORSE RACING BOARD
TITLE 4, CALIFORNIA CODE OF REGULATIONS
ARTICLE 17. FIRE PREVENTION AND SECURITY
PROPOSED ADDITION OF
RULE 1927.1 TAMPERING WITH SMOKE DETECTORS PROHIBITED

1927.1 . Tampering With Smoke Detectors Prohibited.

(a) In accordance with section 901.8 of title 24, part 9 of the California Code of Regulations (California Fire Code), no licensee shall willfully tamper with, dismantle, or disable any automatic fire alarm system or smoke detector that is located on the grounds of a facility under the jurisdiction of the Board.

(1) A violation of 1927.1(a) shall result in a hearing before the stewards who will impose a fine of:

(A) \$25.00 for the first offense within a 365 day period;

(B) \$50.00 for the second offense within a 365 day period;

(C) \$75.00 for the third offense within a 365 day period;

(D) \$100.00 for the fourth or more offense within a 365 day period.

(b) A trainer will be found culpable, after a hearing before the stewards, if two or more violations of 1927.1(a) are committed by any one of the trainer's assigned employees in the trainer's assigned area within a 365 day period.

(1) A trainer found culpable under 1927.1(b) will be fined:

(A) \$100 for the second offense within a 365 day period;

(B) \$200 for the third offense within a 365 day period;

(C) \$300 for the fourth offense within a 365 day period;

(D) \$500 for the fifth or more offense within a 365 day period.

Authority: Sections 19420, 19440, 19460 and 19661,
Business and Professions Code.

Reference: Sections 19440 and 19481,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND
RULE 2066. APPLICATION FOR LICENSE TO OPERATE A MINISATELLITE
WAGERING FACILITY.

The California Horse Racing Board (Board/CHRB) 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 2066, Application for License to Operate a Minisatellite Wagering Facility, to increase the term of license to operate a minisatellite wagering facility from two years to five years.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 19, 2013**, or as soon after that as business before the Board will permit, at the **Sheraton Fairplex Suites, 601 W. McKinley Avenue, Pomona, 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 representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on September 16, 2013**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6026
Fax: (916) 263-6022
E-Mail: lturner@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, and 19605.25, Business and Professions Code.
Reference: Sections 19410.7, 19460 and 19605.25, Business and Professions Code.

Business and Professions Code sections 19420, 19440 and 19460 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19410.7, 19440, 19460, and 19605.25, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19410.7 states “minisatellite wagering site” means a location where satellite wagering may be conducted, with the approval of the board, provided that the wagering occurs in an area that is restricted to those who are 21 years of age or older. Business and Professions Code section 19420 provides that 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 California Horse Racing Board (CHRB/Board). Business and Professions Code section 19440 states 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 include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering, and administration and enforcement of all laws, rules and regulations affecting horse racing and pari-mutuel wagering. Business and Professions Code section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations and conditions from time to time prescribed by the Board. Business and Professions Code section 19605.25 authorizes the Board to license 45 California minisatellite wagering facilities, 15 in each of the northern, central, and southern zones, as specified. Subsection 19605.25(h) provides that the Board shall license a minisatellite facility for up to five years.

The Board proposes to amend Rule 2066, Application for License to Operate a Minisatellite Wagering Facility, to increase the term of license to operate a minisatellite wagering facility from two years to five years.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 2066 will increase the term of license from two years to five years. The longer term of licensure will assist applicants in planning for their businesses' futures. It will lower the cost to owners by lowering the number of required future renewals while increasing current stability. This will benefit existing minisatellites as well as attract more applicants to the idea of opening a minisatellite facility. Opening more minisatellite facilities will expand wagering opportunities for horseracing, potentially increasing handle, commissions, and purses. This will help to ensure the continued viability of the sport of horseracing in California. The authority citation of Business and Professions Code section 19590 refers to horse racing meetings and advance deposit wagering, but does not refer to satellite wagering and has therefore been removed.

Consistency with Existing State Regulations: During the process of developing these regulations and amendments, the California Horse Racing Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: Due to the longer license term CHRB may incur minimal savings in a reduction of applications for renewal license to operate a minisatellite wagering facility.

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 addition of Rule 2066 will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: none.

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 to Rule 2066 may create jobs within the State of California by increasing the number of new minisatellites in California. Business and Professions Code 19605.4 allows for a possible 45 minisatellites throughout the State of California. There are currently six operating minisatellites in California. The proposed amendment of Rule 2066 may increase new businesses in California by making investing in minisatellites more attractive. The proposed amendment of Rule 2066 may make adding a minisatellite to an existing restaurant or bar a more attractive investment. This may increase the number of existing businesses that expand to operate a minisatellite facility.

Effect on small businesses: none. The proposal to amendment of Rule 2066 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 by the Board, 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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:

Leeland Turner, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
E-mail: lturner@chrb.ca.gov

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

Harold Coburn,
Regulation Analyst
Telephone: (916) 263-6397

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 of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Leeland Turner, 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 regulations. Requests for copies of any modified regulation should be sent to the attention of Leeland Turner 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 made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Leeland Turner 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 2066. APPLICATION FOR LICENSE TO OPERATE A MINISATELLITE WAGERING FACILITY.

SPECIFIC PURPOSE OF THE REGULATION

The amendment to Rule 2066 will change the term of a license to operate a minisatellite wagering facility from two years to five years.

PROBLEM

Senate Bill 305, Chapter 334, Statutes of 2011, amended Business and Professions Code section 19605.25, subsection (h), changing the term of licensure for a license to operate a minisatellite from “two years” to “up to five years.” The California Horse Racing Board determined a five year term for a license to operate a minisatellite would be the best option available by statute. The authority citation of Business and Professions Code section 19590 is inappropriate because the section refers to horse racing meetings and advance deposit wagering, but does not refer to satellite wagering.

NECESSITY

Senate Bill 305, Chapter 334, Statutes of 2011 allowed for the Board’s decision to extend the term of license from two years to five years. The Board has determined that setting the term of license to operate a minisatellite wagering facility at five years will attract more applicants. Because Rule 2066 currently sets the term of license at two years it is necessary to amend the regulation. The authority citation of Business and Professions Code section 19590 has been removed for purposes of clarity.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

Longer terms of licensure will assist applicants in planning for their businesses futures. It will lower the cost to applicants by reducing the number of required future renewals while increasing current stability. This will benefit existing minisatellites as well as attract more applicants to the idea of opening a minisatellite facility. Opening more minisatellite facilities will expand wagering opportunities for horseracing, potentially increasing handle, commissions, and purses. This will help to ensure the continued viability of the sport of horseracing in California. Removing the authority citation of Business and Professions Code section 19590 will correct an inaccuracy within the regulation.

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

The Board relied on the Economic Impact Analysis for Rule 2066, Application for License to Operate a Minisatellite Wagering Facility in proposing the amendment of Rule 2066. The Board did not rely on any other technical, theoretical, and/or empirical study, reports or documents in proposing the amendment of Rule 2066.

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

The Board has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION.

The proposed amendment to Rule 2066 was discussed at the June 20, 2013, Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at either meeting. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
July 16, 2013

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 25.5. MINISATELLITE WAGERING
AMENDMENT OF RULE 2066.
APPLICATION FOR LICENSE TO OPERATE A MINISATELLITE WAGERING FACILITY.

2066. Application for License to Operate a Minisatellite Wagering Facility.

(a) An applicant for license to operate a minisatellite wagering facility shall complete an Application for License to Operate a Minisatellite Wagering Facility CHRB-228 (New 11/08), hereby incorporated by reference, which is available at the Board's headquarters office. Note: CHRB-228 incorporates by reference the Personal History Record form CHRB-25A (Rev. 11/08). The application must be filed not later than 90 days in advance of the scheduled start date of operation. The application must include a certified check in the amount of \$500.00 payable to the Treasurer of the State of California for a nonrefundable application fee. The term of the license shall be ~~two~~ five years from the date the license is issued.

(b) The Board may conduct investigations, inspections or request additional information from the applicant, as it deems appropriate in determining whether to approve the license.

(1) Upon the written request of the applicant the Board may waive the requirement for submission of a Full Disclosure Statement and CHRB-25A for persons who have a current valid state gambling license and/or finding of suitability issued by the California Gambling Control Commission.

(c) The Board, or its designee, shall be given access for review and audit of all records. The applicant shall, at its location during hours of operation, make such information available. The Board may require the applicant to annually submit audited financial statements.

(d) All advertisements shall contain a statement that persons under 21 are not allowed access to the minisatellite wagering site. All advertisements shall contain contact information for a recognized problem-gambling support organization.

(e) The Board shall notify the applicant in writing within 30 calendar days from the date the application is received by the Board's administrative office if the application is complete or deficient. If the application is deficient, the notice shall include:

(1) Instructions as to what is required of the applicant to complete the application.

(2) Instructions for requesting additional time to satisfy the requirements listed in the notification, if needed.

(f) The Board shall approve or deny an application within 90 calendar days from the date it is received by the Board unless the applicant requests and is granted additional time to supply information.

(g) If the Board denies an application, the applicant has 30 calendar days from the date of receipt of the Board's denial notification to request a reconsideration of the Board's decision. The request must be in writing and sent to the Board's headquarters office. The Board shall

respond in writing to the reconsideration request within 30 working days from the date of receipt of the request. If reconsideration is denied, the applicant may file for judicial review in accordance with Business and Professions Code section 19463.

(h) After a license to operate a minisatellite wagering facility is issued under this article, changes or amendments to information or operating procedures contained in the application for the license will be permitted by order of the Board or by Board approval of a request submitted in writing by the applicant.

Authority: Sections 19420, 19440, ~~19590~~ and 19605.25,
Business and Professions Code.
Reference: Sections 19410.7, 19460 and 19605.25,
Business and Professions Code.