

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public **until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.**

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

NOTICE OF PROPOSAL TO AMEND
RULE 1632, JOCKEY'S RIDING FEE

The California Horse Racing Board (Board, or 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 1632, Jockey's Riding Fee, to adjust the Non-Winning Jockey Riding Fee scale for losing mounts to reflect the new California minimum wage increase of 12.5 percent that became effective July 1, 2014. Business and Professions Code section 19501(b)(1) requires the scale of minimum jockey riding fees for losing mounts to be increased whenever the State minimum wage is increased by the percentage of that increase. In addition, the Board proposes to amend the Non-Winning Jockey Riding Fee scale to reflect an increase of 12.5 percent for the 2nd and 3rd place mounts in races with a gross purse of \$9,999 or less.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, March 19, 2015**, or as soon after that as business before the Board will permit, at the **California Exposition and State Fair Turf Club, 1600 Exposition Boulevard, Sacramento, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on March 9, 2015**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Nicole Lopes-Gravely, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022

E-mail: nlgravely@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19501 and 19562, Business and Professions Code. Reference: Sections 19401 (a), 19401 (d), 19420, 19440, 19501, and 19502, Business and Professions Code. Business and Professions Code sections 19420 and 19440 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and authorize the Board to adopt, amend or repeal regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19401(a) and (d) provides that the intent of Chapter 4 is to allow pari-mutuel wagering on horse races, while assuring protection of the public and providing uniformity of regulation for each type of horse racing. Business and Professions Code section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing 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 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 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in California. Assembly Bill (AB) 649, Chapter 605, Statutes of 2007, added section 19501 to the Business and Professions Code. Subsection 19501(b)(1) states that the scale of minimum jockey riding fees for losing mounts shall be increased whenever the State minimum wage is increased by the percentage of that increase.

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum jockey riding fees for losing mounts whenever the State minimum wage is increased by a percentage of that increase. As of July 1, 2014, the California minimum wage rate was increased 12.5 percent per hour for all hours worked. This necessitates the amendment of Board Rule 1632, which provides jockey riding fees in the absence of a contract or special agreement between the trainer/owner and jockey. The Board proposes to amend subsection 1632(b) by increasing the minimum jockey riding fee for losing mounts by 12.5 percent to comply with Business and Professions Code section 19501(b)(1). However, the 12.5 percent increase to the losing mount fees causes the losing mount to earn more than the third place mount finishing with a gross purse of less than \$9,999. Due to Business and Professions Code section 19501(b)(1), the minimum wage increase of July 2014 results in a losing mount earning more than a mount coming in second or third place. This creates a disparity between the non-winning jockey riding fees making it more advantageous for a jockey to intentionally lose a race rather than to put forth his best effort, thereby compromising the honesty and integrity of a race. Therefore, the Board also proposes to amend the 2nd and 3rd place mount fees to reflect the 12.5 percent minimum wage increase for all mounts not sharing in purse monies to ensure these riders receive more than losing mounts.

The proposed amendment to Rule 1632 modifies subsection 1632(b) by adjusting the scale of jockey riding fees for losing mounts and for all 2nd and 3rd place mounts in races with a gross purse of \$9,999 or less by 12.5 percent.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1632(b) increases the scale of minimum jockey riding fees for losing mounts by 12.5 percent based on the California minimum wage rate increase that became effective July 1, 2014. In addition, the amendment to Rule 1632(b) applies the 12.5 percent increase for all 2nd and 3rd place mounts in races with a gross purse of \$9,999 or less in order to balance the Non-Winning Jockey Riding Fee scale. This will eliminate any disparity between the non-winning jockey riding fees.

CONSISTENCY EVALUATION

During the process of developing these regulations and amendments, the CHRB 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 Section 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 of Rule 1632 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1632 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 proposed amendment to Rule 1632 promotes the health and welfare of California residents by increasing the scale of minimum jockey riding fees for losing mounts by 12.5 percent based on the California minimum wage rate increase that became effective July 1, 2014. In addition, the amendment to Rule 1632(b) applies the 12.5 percent increase for all 2nd and 3rd place mounts in races with a gross purse of \$9,999 or less in order to balance the Non-Winning Jockey Riding Fee scale. This will eliminate any disparity between the non-winning jockey riding fees.

Effect on small businesses: none. The proposal to amend Rule 1632 does not affect small businesses because horse racing associations in California are not classified as small businesses 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 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:

Nicole Lopes-Gravely, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: nlgravely@chrb.ca.gov

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

Andrea Ogden, Manager
Policy and Regulations
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Nicole Lopes-Gravely, 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 regulations should be sent to the attention of Nicole Lopes-Gravely 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 modified form, should be sent to the attention of Nicole Lopes-Gravely 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 regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 1632. JOCKEY'S RIDING FEE.

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to amend Rule 1632, Jockey's Riding Fee, to adjust the Non-Winning Jockey Riding Fee scale for losing mounts to reflect the new California minimum wage increase of 12.5 percent that became effective July 1, 2014. Business and Professions Code section 19501(b)(1) requires the scale of minimum jockey riding fees for losing mounts to be increased whenever the State minimum wage is increased by the percentage of that increase. In addition, the Board proposes to amend the Non-Winning Jockey Riding Fee scale to reflect an increase of 12.5 percent for the 2nd and 3rd place mounts in races with a gross purse of \$9,999 or less.

PROBLEM

Assembly Bill (AB) 649, Chapter 605, Statutes of 2007, added section 19501 to the Business and Professions Code to require the scale of minimum jockey riding fees for losing mounts to be increased whenever the State minimum wage is increased. Effective July 1, 2014, California's minimum wage rate was increased by 12.5 percent. However, the 12.5 percent increase to the losing mount fees causes the losing mount to earn more than the third place mount finishing with a gross purse of \$9,999 or less. This creates a disparity between the non-winning jockey riding fees and may remove any incentive for a jockey to put forth his best effort.

NECESSITY

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum jockey riding fees for losing mounts whenever the State minimum wage is increased by a percentage of that increase. As of July 1, 2014, the California minimum wage rate was increased by 12.5 percent per hour for all hours worked. This necessitates the amendment of Board Rule 1632, which provides jockey riding fees in the absence of a contract or special agreement between the trainer/owner and jockey. The Board proposes to amend subsection 1632(b) by increasing the minimum jockey riding fee for losing mounts by 12.5 percent to comply with Business and Professions Code section 19501(b)(1). However, the 12.5 percent increase to the losing mount fees causes the losing mount to earn more than the third place mount finishing with a gross purse of less than \$9,999. Due to Business and Professions Code section 19501(b)(1), the minimum wage increase of July 2014, results in a losing mount earning more than a mount coming in second or third place. This creates a disparity between the non-winning jockey riding fees making it more advantageous for a jockey to intentionally lose a race rather than to put forth his best effort, thereby compromising the honesty and integrity of a race. Therefore, the Board also proposes to amend the 2nd and 3rd place mount fees to reflect the 12.5 percent minimum wage increase for all mounts not sharing in purse monies to ensure these riders receive more than losing mounts.

The proposed amendment to Rule 1632 modifies subsection 1632(b) by adjusting the scale of jockey riding fees for losing mounts and for all 2nd and 3rd place mounts in races with a gross purse of \$9,999 or less by 12.5 percent.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The Board will be in compliance with the provisions of Business and Professions Code section 19501 by amending Rule 1632 to reflect the recent State minimum wage rate increase of 12.5 percent for losing mounts. In addition, by applying the 12.5 percent increase to the 2nd and 3rd place mount fees, the Board will create a balanced fee scale and eliminate any inequality.

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.

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.

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 1632 was discussed at the August 21, 2014 Regular Board Meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at the 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
January 23, 2015

**CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 6. ENTRIES AND DECLARATIONS
PROPOSED AMENDMENT OF
RULE 1632 JOCKEY’S RIDING FEE**

1632. Jockey's Riding Fee.

(a) Winning jockey riding fees in the absence of a contract or special agreement are:

GROSS PURSE	Winning Mount
\$100,000 and up:	10% of Win Purse
50,000-99,999:	10% of Win Purse
25,000-49,999:	10% of Win Purse
15,000-24,999:	10% of Win Purse
10,000-14,999:	10% of Win Purse
5,000-9,999:	10% of Win Purse
3,500-4,999:	10% of Win Purse
2,000-3,499:	10% of Win Purse
1,500-1,999:	10% of Win Purse

(1) The purpose of subsection (a) is not to set a minimum or maximum fee. It provides a fee if the parties have not made a written agreement to the contrary.

(2) All fees pursuant to subsection (a) are payable in the lower purse range until the next higher purse range is reached, unless there is a written agreement to the contrary.

(b) Non-winning jockey riding fees are:

GROSS PURSE	2nd Mount	3rd Mount	Losing Mount
\$100,000 and up:	5% of Place Purse,	5% of Show Purse,	\$135.00 <u>\$151.88</u>

50,000-99,999:	plus \$10.00 5% of Place Purse, plus \$10.00	plus \$10.00 5% of Show Purse, plus \$10.00	110.00 <u>123.75</u>
25,000-49,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	95.00 <u>106.88</u>
15,000-24,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	85.00 <u>95.63</u>
10,000-14,999:	5% of Place Purse, plus \$10.00	5% of Show Purse, plus \$10.00	80.00 <u>90.00</u>
5,000-9,999:	\$90.00 <u>\$101.25</u>	\$77.00 <u>\$86.63</u>	75.00 <u>84.38</u>
3,500-4,999:	80.00 <u>90.00</u>	70.00 <u>78.75</u>	65.00 <u>73.13</u>
2,000-3,499:	70.00 <u>78.75</u>	65.00 <u>73.13</u>	63.00 <u>70.88</u>
1,500-1,999:	60.00 <u>67.50</u>	58.00 <u>65.25</u>	58.00 <u>65.25</u>

(1) The purpose of subsection (b) is to set a minimum, but not a maximum riding fee. No non-winning jockey shall be paid less than the riding fee set forth in subsection (b).

(2) All fees pursuant to subsection (b) are payable in the lower purse range until the next higher purse range is reached unless there is a written agreement to the contrary. However, no such written agreement shall reduce the minimum required by subsection (b).

(c) A jockey's fee is considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey elects to take himself off of his mount. If there is a substitution of jockeys, no additional jockey fee or double jockey fee need be paid except when ordered by the stewards.

(d) In this rule "Win Purse" means the amount paid the winning horse less the fees paid exclusively by the owner to enter the horse in the race;

(1) Entry, nomination or other fees paid shall not be deducted from a jockey riding fee if such fees are paid or reimbursed by any person or entity other than the owner.

(e) If the parties agree on the fee to be paid the jockey, a contract or agreement in writing signed by the jockey or his agent and the owner or his authorized agent specifying the agreed upon fee if a winning mount, second place mount, third place mount and losing mount shall be delivered to the paymaster of purses before the running of the race in question. The paymaster of purses shall debit the owner's purse account under the contract or written agreement. If no

contract or written agreement is submitted before the running of the race in question, the paymaster of purses shall debit the owner's purse account under the fee scale set forth in this rule.

(f) A jockey may not share in the fees of another jockey.

Authority: Sections 19440, 19501 and 19562,
Business and Professions Code.

Reference: Sections 19401 (a), 19401(d), 19420, 19440, 19501, and 19502,
Business and Professions Code.