

**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 1688. USE OF RIDING CROP

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 proposed amendment of Board Rule 1688, Use of Riding Crop, would change the title and text to replace the word “whip” with “riding crop”. The proposed amendment would also prohibit a jockey from using a riding crop on a horse more than three times in succession without giving the horse a chance to respond before using the riding crop again.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, November 20, 2014**, or as soon after that as business before the Board will permit, at the **Del Mar Surfside Race Place, 2260 Jimmy Durante Blvd., 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.

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 October 27, 2014**. 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, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
Fax: (916) 263-6022  
E-mail: [ltturner@chr.ca.gov](mailto:ltturner@chr.ca.gov)

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, and 19562, Business and Professions Code. Reference: Section 19440, 19481, and 19562, Business and Professions Code.

Business and Professions Code sections 19420, 19440, and 19562 authorize the Board to amend the proposed regulation, which would implement, interpret or make specific section 19440, 19481, and 19562, Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that 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, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states 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 this state.

The Board proposes to amend Rule 1688 to change the title and text to replace the word “whip” with “riding crop”. The amendment would also place an additional limit on the jockey’s use of the riding crop during a race. A new subsection 1688(b)(6) prohibits the jockey from using the riding crop more than three times in succession without giving the horse a chance to respond before using the riding crop again. The purpose of subsection 1688(b)(6) is to curtail and prevent the excessive use of the riding crop. Under the proposed section 1688(b)(6) jockeys will be prohibited from using the riding crop more than three times in succession without giving the horse a chance to respond. This will allow the jockey time to show the horse the riding crop, and provide the horse with time to respond. It is crucial for the jockey to give the horse time to respond so that he or she can tell whether or not the horse is responsive to the initial usage of the riding crop. There are certain outward signs a jockey can look for to determine if a horse is responding or not responding to the use of the riding crop such as the relative position of the horse to other horses in the race over time, whether or not the horse increases or decreases speed when the riding crop is used, whether the horse flags its tail (swatting its tail), and whether the horse moves laterally away from or towards the side where the riding crop was used.

The riding crop is a tool that is used not only to encourage race horses, but also to maintain control. The riding crop is used in certain situations for safety because it provides a measure of control over the horse in critical situations; however, excessive or inappropriate use of the riding crop presents a horse welfare issue. In addition to ensuring the humane treatment of the horse, the Board believes it is necessary to update Rule 1688 to conform to similar changes in other jurisdictions. Kentucky requires that the jockey show the horse the riding crop and give it time to respond before using the riding crop on the horse. A jockey must give the horse a chance to respond before any subsequent use of the riding crop. New York requires the jockey to show the horse the riding crop before using it again. The Association of Racing Commissioners International (ARCI) is the international association of the government sanctioned entities responsible for the honesty and integrity of horse racing as well as all associated pari-mutuel wagering. The association sets standards for racing regulations and medication policies, among

other things. ARCI Model Rule, ARCI-010-035 Running of the Race, subsection (E)(7)(f) states that all riders should comply with the following when using a riding crop: (A) Showing the horse the riding crop and giving it time to respond before hitting it; (B) Having used the riding crop, giving the horse a chance to respond before using it again. The amendment of Rule 1688 is necessary to clarify what is the acceptable use of a riding crop and update the rule to be consistent with similar changes adopted by other jurisdictions.

#### POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment of Rule 1688 promotes the protection of jockey and horse health and safety. The CHRB considers animal welfare and good sportsmanship fundamental for the success of horse racing. The proposed amendment of Rule 1688 provides direction on the appropriate use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing pain. If the safety practices of riders improve, the public will see horse racing as a sport that cares, which may result in an increase of attraction to the sport. An increase of attraction to the sport could result in an increase in wagering which will have 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 conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

#### 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 to Rule 1866 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.

## RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment of Rule 1688 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 amendment is a benefit to California because it promotes the protection of jockey and horse health and safety. The CHRB considers animal welfare and good sportsmanship fundamental for the success of horse racing. The proposed amendment of Rule 1688 provides direction on the appropriate use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing pain. If the safety practices of riders improve, the public will see horse racing as a sport that cares, which may result in an increase of attraction to the sport. An increase of attraction to the sport could result in an increase in wagering which will have a positive economic impact on the industry.

Effect on small businesses: none. The proposal to amendment of Rule 1688 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 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.

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, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
E-mail: [lturner@chr.ca.gov](mailto:lturner@chr.ca.gov)

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

Andrea Ogden, Manager, Policy and Regulations  
Telephone: (916) 263-6033  
E-mail: [andrea@chr.ca.gov](mailto:andrea@chr.ca.gov)

## AVAILABILITY OF FINAL 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 and all available information of which this proposal is based on. Copies 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 regulation. Requests for copies of any modified regulations 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](http://www.chrb.ca.gov).

## INITIAL STATEMENT OF REASONS

### RULE 1688. USE OF RIDING CROP.

## SPECIFIC PURPOSE OF THE REGULATION

The proposed amendment of Board Rule 1688, Use of Riding Crop, would change the title and text to replace the word "whip" with "riding crop". The proposed amendment would also prohibit a jockey from using a riding crop on a horse more than three times in succession without giving the horse a chance to respond before using the riding crop again.

## PROBLEM

The Board is proposing to amend Rule 1688 to change the title and text to replace the word “whip” with “riding crop” and revise the requirements for jockeys’ use of riding crops during races. It is a priority of the Board to ensure humane treatment of the horse. The proposed amendment will bring the Board’s rule in line with the Association of Racing Commissioners International Model Rules and similar changes in other racing jurisdictions.

## NECESSITY

The Board proposes to amend Rule 1688 to change the title and text to replace the word “whip” with “riding crop”. The amendment would also place an additional limit on the jockey’s use of the riding crop during a race. A new subsection 1688(b)(6) prohibits the jockey from using the riding crop more than three times in succession without giving the horse a chance to respond before using the riding crop again. The purpose of subsection 1688(b)(6) is to curtail and prevent the excessive use of the riding crop. Under the proposed section 1688(b)(6) jockeys will be prohibited from using the riding crop more than three times in succession without giving the horse a chance to respond. This will allow the jockey time to show the horse the riding crop, and provide the horse with time to respond. It is crucial for the jockey to give the horse time to respond so that he or she can tell whether or not the horse is responsive to the initial usage of the riding crop. There are certain outward signs a jockey can look for to determine if a horse is responding or not responding to the use of the riding crop such as the relative position of the horse to other horses in the race over time, whether or not the horse increases or decreases speed when the riding crop is used, whether the horse flags its tail (swatting its tail), and whether the horse moves laterally away from or towards the side where the riding crop was used.

The riding crop is a tool that is used not only to encourage race horses, but also to maintain control. The riding crop is used in certain situations for safety because it provides a measure of control over the horse in critical situations; however, excessive or inappropriate use of the riding crop presents a horse welfare issue. In addition to ensuring the humane treatment of the horse, the Board believes it is necessary to update Rule 1688 to conform to similar changes in other jurisdictions. Kentucky requires that the jockey show the horse the riding crop and give it time to respond before using the riding crop on the horse. A jockey must give the horse a chance to respond before any subsequent use of the riding crop. New York requires the jockey to show the horse the riding crop before using it again. The Association of Racing Commissioners International (ARCI) is the international association of the government sanctioned entities responsible for the honesty and integrity of horse racing as well as all associated pari-mutuel wagering. The association sets standards for racing regulations and medication policies, among other things. ARCI Model Rule, ARCI-010-035 Running of the Race, subsection (E)(7)(f) states that all riders should comply with the following when using a riding crop: (A) Showing the horse the riding crop and giving it time to respond before hitting it; (B) Having used the riding crop, giving the horse a chance to respond before using it again. The amendment of Rule 1688 is necessary to clarify what is the acceptable use of a riding crop and update the rule to be consistent with similar changes adopted by other jurisdictions.

## BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment of Rule 1688 promotes the protection of jockey and horse health and safety. The CHRB considers animal welfare and good sportsmanship fundamental for the success of horse racing. The proposed amendment of Rule 1688 provides direction on the appropriate use of the riding

crop so that it will be used for safety, correction, or to encourage the horse without causing pain. If the safety practices of riders improve, the public will see horse racing as a sport that cares, which may result in an increase of attraction to the sport. An increase of attraction to the sport could result in an increase in wagering which will have a positive economic impact on the industry.

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

In proposing the amendment of Rule 1688, the Board relied on the results of its Economic Impact Assessment prepared pursuant to Government Code section 11346.3(b). The Board also relied on Jockeys' Guild comments. The Board did not rely on any other technical, theoretical, and/or empirical study, reports or documents in proposing the amendment of Rule 1688.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

The results of the Board's Economic Impact Assessment as required by Government Code Section 11346.3(b) are as follows:

- The proposed regulation will not impact the creation or eliminate jobs within the State of California, or the creation of new businesses or the elimination of existing business or the expansion of businesses in California.
- The proposed amendment of Rule 1688 will not impact the creation of new businesses or eliminate existing businesses in California.
- Rule 1688 will not impact the expansion of businesses currently doing business in California.
- The proposed regulation will benefit the health and welfare of jockeys who are California residents but will not benefit the State's environment.

The Board has made an initial determination that the proposed amendment of Rule 1688 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 amendment of Rule 1688 is intended to update the rule and provide an additional measure of safety.

#### 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.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed amendment of Rule 1688 was discussed at the April 16, 2014 Medication and Track Safety Committee Meeting and the April 25, 2014 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  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
ARTICLE 8. RUNNING THE RACE  
PROPOSED AMENDMENT OF  
RULE 1688. USE OF RIDING CROP.

1688. Use of ~~Whips~~ Riding Crop.

(a) In all races where a jockey will not ride with a ~~whip~~ riding crop, an announcement shall be made over the public address system of such fact.

(b) Although the use of a ~~whip~~ riding crop is not required, any jockey who uses a ~~whip~~ riding crop during a race is prohibited from whipping a horse:

(1) on the head, flanks, or on any parts of its body other than the shoulders or hind quarters;

(2) during the post parade except when necessary to control the horse;

(3) excessively or brutally causing welts or breaks in the skin;

(4) when the horse is clearly out of the race or has obtained its maximum placing; or

(5) persistently even though the horse is showing no response under the ~~whip~~ riding crop; or

(6) more than three times in succession without giving the horse a chance to respond before using the riding crop again.

(c) Correct uses of the ~~whip~~ riding crop are:

(1) showing horses the ~~whip~~ riding crop before hitting them;

(2) using the ~~whip~~ riding crop in rhythm with the horse's stride; and

(3) using the ~~whip~~ riding crop as an aid to maintain a horse running straight.

Authority: Sections 19420, 19440 and 19562,  
Business and Professions Code.

Reference: Sections 19440, 19481 and 19562,  
Business and Professions Code