

INITIAL STATEMENT OF REASONS

RULE 1632. JOCKEY'S RIDING FEE.

SPECIFIC PURPOSE OF THE REGULATION

The California Horse Racing Board (Board) proposes to amend Rule 1632, Jockey's Riding Fee. The proposed amendment would delete the dollar amounts for second and third place mounts in the "Less than \$10,000" category. The Board proposed to remove the second and third place mount fees under subsection 1632(b), as subsections 1632(b)(3) through 1632(b)(5) provide direction regarding the amounts to be paid non-winning jockeys, depending on the gross purse level. In addition, the losing mount fees under subsection 1632(b) have been increased consistent with California's 2019 minimum wage increase, which is 9.09 percent. The proposed amendment also amends subsection 1632(b)(5) for purposes of clarity.

PROBLEM

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum (losing) jockey riding fees whenever the state minimum wage is increased by the percentage of that increase. The next increase in California's minimum wage will become effective January 1, 2019. The proposed amendment will increase subsection 1632's losing mount jockey riding fees in accordance with Business and Professions Code section 19501(b)(1).

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum (losing) jockey riding fees whenever the state minimum wage is increased by the percentage of that increase; however, it does not provide for an increase in second and third place mount fees. Subsection (b) of Rule 1632 currently provides specific dollar amounts to pay losing mounts, as well as the dollar amounts for second and third place mounts in the "Less than \$10,000" category. Direction regarding second and third place mount fees is otherwise provided under the provisions of subsections 1632(b)(3) through 1632(b)(5). The Board has proposed amending subsection 1632(b) to delete the dollar amounts for second and third place mounts in the "Less than \$10,000" category, as they are not necessary for the Paymaster of Purses to use in calculating jockey riding fees.

Subsection 1632(b)(5) provides additional direction regarding second and third place mount fees. The subsection has been amended for clarity to provide that the third place mount shall earn at minimum \$2 more than the losing mount, and the second place mount shall earn at minimum \$2 more than the third place mount. Subsection 1632(b)(5) ensures that losing mount fees are never equal to or greater than third place mount fees, and that third place mount fees shall be less than second place fees. This is necessary because the periodic increase in losing mount fees mandated by statute has resulted in situations in which the losing mount fee under subsection 1632(b) exceeds the third place mount fees. This is demonstrated by the most recent amendment of Rule 1632 (effective 01/01/18), which resulted in subsection 1632(b), gross purse of \$10,000 category, providing a losing mount fee that is \$2 more than the third place mount fee.

NECESSITY

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum (losing) jockey riding fees whenever the state minimum wage is increased by the percentage of that increase. The next increase in California's minimum wage will become effective January 1, 2019, which necessitates the amendment of subsection 1632(b) to implement the required increase in losing mount jockey riding fees.

Subsection 1632(b) provides the jockey riding fees for losing mounts. The subparagraph also provides second and third place fees for races with gross purses of less than \$10,000. To provide consistency and clarity, subsection 1632(b) has been amended to delete the dollar amounts for second and third place mounts in the "Less than \$10,000" category. The second and third place mount fees are being deleted because they are not necessary. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting's jockey riding fee scales, which are based on the provisions of the Horsemen's Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5).

The proposed amendment to subsection 1632(b) is necessary to eliminate the current inconsistencies in the dollar amounts for second and third place finishers and fees for losing mounts, as stated under subsection 1632(b). The periodic increase in losing mount fees mandated by statute has resulted in the losing mount fee under subsection 1632(b) exceeding the third place mount fees. The most recent amendment of Rule 1632 (effective 01/01/18), resulted in a losing mount fee in subsection 1632(b) that is \$2 more than the third place mount fee. The proposed amendment is necessary to provide clarity for persons who must calculate jockey riding fees.

Subsection 1632(b)(5) provides direction regarding second and third place mount fees. The Board proposes to amend the subsection for purposes of clarity to provide that the third place mount shall earn at minimum \$2 more than the losing mount, and the second place mount shall earn at minimum \$2 more than the third place mount. The phrase "at minimum" was added to the subparagraph to make it clear that the second and third place mounts can earn more than the \$2 difference.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment to Rule 1632 is necessary to provide consistency in the calculation of jockey riding fees, and to provide clarity for persons who must calculate such fees. The regulation amends subsection 1632(b) to increase losing mount jockey riding fees, and to eliminate the dollar amounts for second and third place mounts in the "Less than \$10,000" category. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting's jockey riding fee scales, which are based on the provisions of the Horsemen's Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5). In addition, the proposed amendment modifies subsection 1632(b)(5) to provide direction regarding second and third place mount fees. The proposed regulation does not protect the public health and safety, worker safety or the environment. The proposed regulation does not prevent discrimination, promote fairness or social equity. The proposed amendment to Rule 1632 will promote transparency in how jockey riding fees are calculated by providing clarity for persons who must use the regulation to pay the

fees. The regulation will eliminate the current inconsistencies in the dollar amounts for second and third place finishers as stated under subsection 1632(b), and fees for losing mounts.

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

The results of the Board's Economic Impact Assessment as required by government Code section 11346.3.

- The proposed regulation will not impact the creation or elimination of jobs within the State of California.
- The proposed regulation will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.
- The proposed regulation will not have an impact on the expansion of existing businesses in the State of California.
- The proposed regulation will not benefit the safety and welfare of horse and rider and will not benefit the state's environment.

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. The proposed amendment impacts jockeys who ride losing mounts, horse racing association Paymaster of Purses and jockeys who ride in races with gross purses of less than \$10,000. In making the determination that the proposed amendment to Rule 1632 will not have an adverse economic impact the Board looked at the number of licensed jockeys in California. There are currently 304 persons licensed as jockeys in California.

PURPOSE

The Board proposes to amend subsection 1632(b), which provides the jockey riding fees for losing mounts. The proposed amendment would increase the losing mount jockey riding fees, and delete the dollar amounts for second and third place mounts in the "Less than \$10,000" category. The increase in losing mount jockey riding fees is mandated by Business and Professions Code section 19501. The Board proposed to remove the second and third place mount fees under subsection 1632(b), as they are not necessary; subsections 1632(b)(3) through 1632(b)(5) provide direction regarding the amounts to be paid non-winning jockeys, depending on the gross purse level. The proposed amendment also amends subsection 1632(b)(5) for purposes of clarity, so that persons using the subsection will understand that second and third place mount fees will be adjusted a minimum of two dollars if the losing mount fee is equal to or greater than the third place mount fee.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1632 amends subsection 1632(b) to increase the losing mount jockey riding fees, and to eliminate the dollar amounts for second and third place mounts in the “Less than \$10,000” category. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting’s jockey riding fee scales, which are based on the provisions of the Horsemen’s Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5). In addition, the proposed amendment modifies subsection 1632(b)(5) to provide direction regarding second and third place mount fees. The proposed amendment will only affect Paymaster of Purses who calculate jockey riding fees, and California’s 304 licensed jockeys. The proposed regulation only has an effect on horseracing and not any other type of California business. Therefore, the Board has determined that this regulatory action will not have a significant impact on the creation or elimination of jobs in the State of California.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1632 amends subsection 1632(b) to increase the losing mount jockey riding fees, and to eliminate the dollar amounts for second and third place mounts in the “Less than \$10,000” category. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting’s jockey riding fee scales, which are based on the provisions of the Horsemen’s Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5). In addition, the proposed amendment modifies subsection 1632(b)(5) to provide direction regarding second and third place mount fees. The proposed amendment will only affect Paymaster of Purses who calculate jockey riding fees, and California’s 304 licensed jockeys. The proposed regulation will not affect any other type of business in California. Therefore, the Board has determined this regulatory action will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.

THE EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1632 amends subsection 1632(b) to increase losing mount jockey riding fees, and to eliminate the dollar amounts for second and third place mounts in the “Less than \$10,000” category. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting’s jockey riding fee scales, which are based on the provisions of the Horsemen’s Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5). In addition, the proposed amendment modifies subsection 1632(b)(5) to provide direction regarding second and third place mount fees. The proposed amendment will only affect Paymaster of Purses who calculate jockey riding fees, and California’s 304 licensed jockeys. The proposed regulation will not affect any other type of business in California. Therefore, the board has determined that the proposed regulatory action is not relevant to the expansion of businesses currently doing business in the State of California.

BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

The proposed amendment to Rule 1632 amends subsection 1632(b) to increase losing mount jockey riding fees, and to eliminate the dollar amounts for second and third place mounts in the "Less than \$10,000" category. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting's jockey riding fee scales, which are based on the provisions of the Horsemen's Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5). In addition, the proposed amendment modifies subsection 1632(b)(5) to provide direction regarding second and third place mount fees. The proposed amendment will only affect Paymaster of Purses who calculate jockey riding fees, and California's 304 licensed jockeys. The proposed amendment to Rule 1632 will not benefit the health of California residents. The proposed amendment will benefit the welfare of California's jockeys by providing clarity for Paymaster of Purses in calculating jockey riding fees. The regulation does not benefit the state's environment.

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 to Rule 1632 was discussed at the July 19, 2018 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 recommendation 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 10, 2018