

INITIAL STATEMENT OF REASONS

RULE 1688. USE OF THE RIDING CROP

SPECIFIC PURPOSE OF THE REGULATION

The California Horse Racing Board (Board) proposes to amend Board Rule 1688, Use of Riding Crop, to place restrictions on the use of the riding crop during a race and in training. The proposed amendment describes the correct use of the riding crop during training and racing and limits the number of times the crop may be used during a race. The proposed regulation provides for penalties for jockeys or exercise riders who use the riding crop in a manner contrary to the regulation. If in the opinion of the stewards the use of the crop was necessary for the safety of the horse or rider, however, the rider will not be penalized.

PROBLEM

The riding crop is a tool designed to encourage movement, or aid in guidance or control over horses, either through direct contact or as a visual directional cue. In recent years, many horse racing jurisdictions have taken steps toward limiting the use of riding crops, including how many times a rider may strike the horse and where the horse may be struck. Public perception and the industry's desire to treat horses in a humane manner are motivating factors in both the changes in the design of riding crops and the limitations placed on its use during training and racing. In 2019, there were a number of equine fatalities at Santa Anita Park Race Track. Although the riding crop is not thought to have been a factor in the fatalities, its use is part of a larger examination of horse racing in California. As a result, the Board has proposed amending Board Rule 1688 to provide guidance in the use of the crop during training and racing and to impose penalties for jockeys and exercise riders who use the riding crop in violation of the rule.

NECESSITY

The proposed amendment to Board Rule 1688 will add a new subsection 1688(b)(1) to provide that the rider may not use the riding crop during training except when necessary for the safety of horse or rider. Training occurs in the mornings, generally between 6:00 a.m. and 10:00 a.m. Training sessions can include walking, trotting, galloping, and working (running). The trainer schedules workouts depending on the horse's level of fitness and the distance it is training to race. Training sessions can also be used to get younger horses used to other horses on a track, where they may be bumped or have dirt flying up in their face. Training also allows younger horses to learn to be guided to the rail by their rider. During training sessions, there are ways, other than using a riding crop, to let the horse know it is time to perform. If an exercise rider is trying to encourage a horse to go forward, changes in posture, shaking the reins, nudging at the withers, and vocalizations such as a whistle or chirp may be used to encourage the horse. Subsection 1688(b)(1), however, allows exercise riders to use a riding crop as necessary for the safety of horse or rider. Safety is paramount on the racetrack. Exercise riders are required to wear safety helmets and safety vests, and the racing association is required to provide

ambulance services during racing and training. These safety precautions are necessary because many things can happen during training sessions to put horse and rider at risk. There can be problems with equipment, such as saddles slipping or reins snapping. Horses can stumble or panic. A horse that unseats its rider can cause chaos. The Board has determined that at such times, the use of the riding crop may be necessary for the safety of horse and rider. The crop can be used for guiding and communicating with the horse when circumstances cause other methods of control to prove ineffective.

The existing subsection 1688(b)(1) has been renumbered and is now subsection (b)(2).

The existing subsection 1688(b)(2) has been renumbered and is now subsection (b)(3). The subsection has been amended to allow the use of the riding crop after the finish of the race when it is necessary to control the horse. Horses are powerful animals that may become fractious after the excitement of a race. At such times, the jockey may not be able to control the horse, and it may be appropriate and necessary to use the riding crop for the safety of horse and rider as well as that of other race participants.

The existing subsections 1688(b)(3) through (b)(6) have been renumbered for the purposes of clarity and are now subsections 1688(b)(4) through (b)(7).

Subsection 1688(b)(7) has been amended to provide that the jockey may not use the riding crop on a horse more than two times in succession without giving the horse a chance to respond before using the crop again. The reduction in the number of times the crop may be used in succession is consistent with the industry's imitative to set reasonable basic riding crop guidelines and place restrictions on its unnecessary use.

A new subsection 1688(b)(8) provides that the jockey may not use the riding crop on a horse more than six times during a race, excluding showing or waiving the crop or tapping the horse on the shoulder as defined in subsection (d)¹. Under the current subsection 1688(b)(6) (renumbered as subsection (b)(7)), the jockey is prohibited from using the riding crop more than three times in succession without giving the horse time to respond before using the crop again. However, the current version of the rule has no restriction on the total number of times the crop may be used during a race. The proposed addition of subsection 1688(b)(8) and the amendment of subsection (b)(7) are necessary to place restrictions on the use of the crop during a race to prevent abuse of the horse, to ensure the appropriate and proper use of the crop as a means of guidance and encouragement, and to keep the rider and horse out of trouble.

Subsection (c) has been stricken because the new subsection (b)(1) renders subsections (b)(2) through (b)(8) irrelevant to jockeys and exercise riders during training. Therefore, subsection (c) is redundant and unnecessary.

Subsection 1688(d) has been renumbered for purposes of clarity and is now subsection (c). The subsection has been amended to provide the correct uses of the riding crop. The

¹ In effect, the jockey may only use the riding crop on the horse's hind quarters two times in succession, giving the horse a chance to respond before using the crop again, for a total of six times during a race.

amended subsection 1688(c)(1) states that the jockey may show or waive the crop without touching the horse. During a race, a horse may lose focus or become distracted by other horses running in the race. This is especially true for younger, inexperienced horses. In these instances, showing or waiving the riding crop is a way to get the horse to pay more attention to the jockey. Subsection 1688(c)(2) provides how the jockey is to hold the riding crop (except when showing or waiving the crop). The jockey must hold the crop in an underhanded position at or below the shoulder level of the jockey. Holding the crop in this manner is consistent with the Association of Racing Commissioners International Model Rules of Racing, which are used in racing jurisdictions throughout the United States and is the rule in other racing jurisdictions such as Canada and England. The underhanded position and the inability to raise the riding crop above shoulder level is necessary to help ensure the jockey cannot use the crop with enough force to cause welts or breaks in the horse's skin. Subsections 1688(c)(3) through (c)(3)(B) provide that the jockey may tap the horse on the shoulder with the crop in a down position while having both hands holding onto the reins and touching the neck of the horse. This position is natural to the jockey and horse during the race, so requiring the jockey to have both hands holding the reins and touching the horse's neck is not unreasonable. Subsections 1688(c)(3) through (c)(3)(B) are necessary, however, to prevent the jockey from raising the crop to even shoulder level height; all the jockey can do with the crop is tap the horse on its shoulders.

A new subsection 1688(d) provides for penalties should a jockey or exercise rider use a riding crop in violation of the regulation. The subsection states that absent mitigating circumstances, the jockey or exercise rider who rides in a manner contrary to the rule shall receive a fine and shall be suspended by the stewards. The maximum fine has been set at \$1,000. The maximum fine is designed to be sufficiently punitive to encourage compliance. However, the stewards may impose a lesser fine in consideration of the severity of the violation. The stewards shall also suspend the jockey, with a minimum suspension set at three days. If the violation occurred during a trial heat², the suspension shall include the subsequent related stakes race³. Suspension of license for a jockey means a loss of income, as he or she cannot work. A suspension for a jockey who violates Rule 1688 during a trial heat will mean that he or she also cannot participate in the related stakes race and so forfeits the related jockey riding fee. The Board has determined that the penalties provided under subsection 1688(d) are necessary to ensure that riders understand there are consequences for the unwarranted or excessive use of the riding crop.

Subsection 1688(e) provides that if in the opinion of the stewards the use of a riding crop was necessary for the safety of horse and rider, the jockey or exercise rider shall not be penalized. Safety is paramount on the racetrack, and no jockey or exercise rider should be penalized for use of a riding crop to control a fractious or unmanageable horse. Jockeys weigh an average of 108 to 118 pounds and must be able to control a horse that

² Trial heat: a race run in preparation for a more important race, usually held a week in advance and at a different distance.

³ Stakes race: a horse race in which the purse offered consists in part of monies such as subscriptions, and entry and starting fees paid by the owners of the horses nominated to run in the race.

weights up to 1,200 pounds moving at speeds up to 40 miles per hour during a race. An out-of-control horse is a danger to itself, the rider, and other horses and riders on the track.

All other changes are for renumbering or clarity purposes.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment of Board Rule 1688 promotes the safety and welfare of horses and riders racing and training within the grounds of the inclosure. The proposed amendment will prohibit the use of the riding crop during training, except when necessary to control the horse for the safety of the horse and rider. During a race, the rider may show or waive the crop without touching the horse; hold the crop in a specified manner to tap the horse on its shoulder; or use the crop on the horse's hind quarters no more than two times in succession, giving the horse a chance to respond before using the crop again. The jockey must hold the crop in a specified manner, may not use the crop more than six times during a race, and may not raise the crop above shoulder level. The Board takes its responsibilities in relation to animal welfare seriously. As such, the Board believes that high standards of animal welfare and good horsemanship are central to the sport of horse racing. The proposed amendment to Board Rule 1688 provides a guide to the acceptable use of the riding crop during racing and training; the riding crop is to be used in a limited, judicious manner and when necessary for the control of the horse and the safety of the horse and rider. The overuse of the riding crop can create a negative image of the sport. The public at large has become less tolerant of what it believes to be animal abuse. The indiscriminate use of the riding crop is one factor that may lead the public to believe horse racing is inhumane. The proposed regulation will encourage an acceptable use of the riding crop, which will promote animal welfare and good horsemanship and will help to create a positive image of horse racing. The proposed regulation will benefit the public perception of horse racing.

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 Board Rule 1688.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

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

- 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 benefit California by promoting the safety and welfare of horse and rider and will not benefit the State's environment.

The Board has made the initial determination that the proposed amendment of Board 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 proposed amendment will prohibit the use of the riding crop during training, except when necessary to control the horse for the safety of the horse and rider. During a race, the rider may show or waive the crop without touching the horse; hold the crop in a specified manner to tap the horse on its shoulder; or use the crop on the horse's hind quarters no more than two times in succession, giving the horse a chance to respond before using the crop again. The jockey must hold the crop in a specified manner, may not use the crop more than six times during a race, and may not raise the crop above shoulder level. The Board believes that high standards of animal welfare and good horsemanship are central to the sport of horse racing. The proposed amendment to Board Rule 1688 provides a guide to the acceptable use of the riding crop during racing and training and when necessary for the control of the horse and the safety of the horse and rider. The proposed regulation will encourage an acceptable use of the riding crop, which will promote animal welfare and good horsemanship and will help to create a positive image of horse racing. The proposed amendment does not affect business and will serve to create more humane conditions for horses racing in California.

Purpose:

The proposed amendment of Board Rule 1688 will place limitations on the use of the riding crop during racing and training. The regulation describes how the crop is to be held by the jockey and prohibits the use of a crop on a horse's head or flanks or any parts of its body other than shoulders or hindquarters. Any jockey riding in a manner contrary to the rule may be suspended or fined. The proposed amendment will increase the safety and welfare of equine and human athletes and improve the image of horse racing among the public.

The Creation or Elimination of Jobs Within the State of California

The proposed amendment of Board Rule 1688 will place limitations on the use of the riding crop during racing and training. The regulation describes how the crop is to be held by the jockey and prohibits the use of a crop on a horse's head or flanks or any parts of its body other than shoulders or hindquarters. Any jockey riding in a manner contrary to the rule may be suspended or fined. The proposed regulation will impact only jockeys/exercise riders. Therefore, the Board has determined that the proposed rule amendment will have no direct impact on the creation or elimination of jobs within the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The proposed amendment of Board Rule 1688 will place limitations on the use of the riding crop during racing and training. The regulation describes how the crop is to be held by the jockey and prohibits the use of a crop on a horse's head or flanks or any parts of its body other than shoulders or hindquarters. Any jockey riding in a manner contrary to the rule may be suspended or fined. The proposed regulation will impact only jockeys/exercise riders. Therefore, the Board has determined that the proposed rule amendment will have no direct impact on the creation of new businesses or the elimination of existing businesses within the State of California.

The Expansion of Businesses Currently Doing Business Within the State of California

The proposed amendment of Board Rule 1688 will place limitations on the use of the riding crop during racing and training. The regulation describes how the crop is to be held by the jockey and prohibits the use of a crop on a horse's head or flanks or any parts of its body other than shoulders or hindquarters. Any jockey riding in a manner contrary to the rule may be suspended or fined. The proposed regulation will impact only jockeys/exercise riders. Therefore, the Board has determined that the proposed rule amendment will have no direct impact on the expansion of businesses currently doing business within 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 of Board Rule 1688 will place limitations on the use of the riding crop during racing and training. The regulation describes how the crop is to be held by the jockey and prohibits the use of a crop on a horse's head or flanks or any parts of its body other than shoulders or hindquarters. Any jockey riding in a manner contrary to the rule may be suspended or fined.

The proposed regulation will benefit California residents by adopting a more humane approach to the use of the riding crop during training and racing at California race tracks. California residents can be assured that the welfare of horses is foremost in the interests of California's horse racing industry. The proposed regulation will also benefit worker safety by allowing jockeys and exercise riders to carry and use the riding crop when necessary for the health and safety of horse and rider. 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 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, 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 Board Rule 1688 was discussed at the December 12, 2019 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 that offer any alternative proposal.

April 3, 2020