

INITIAL STATEMENT OF REASONS

RULE 1902. CONDUCT DETRIMENTAL TO HORSE RACING

SPECIFIC PURPOSE OF THE REGULATION

The amendment of California Horse Racing Board (CHRB/Board) Rule 1902, Conduct Detrimental to Horse Racing, to prohibit the presence at or participation in illegal match racing.

PROBLEM

Match racing has been an ongoing problem that the CHRB has been unable to resolve and has been discussed at Board and Committee meetings dating as far back as February 2016. Match racing, or unsanctioned racing, is illegal due to the occurrence of illicit wagering, which is a misdemeanor as defined under BPC code 19661. Additionally, there is a misuse of drugs, animal abuse, and even participant death present at match racing. An undercover investigation by the People for the Ethical Treatment of Animals (PETA) into match racing showed evidence of horses injected with methamphetamine, cocaine, and Ritalin – all class A medication violations and controlled substances. There was also documentation of the use of electro-shocking devices, a violation of Penal Code 337(f). However, despite the animal abuse and unsafe conditions at match racing, in addition to the illicit gambling, local law enforcement has been unable to shut down these races. While CHRB does not have jurisdiction over unsanctioned racing, they do have jurisdiction over any licensed jockeys, trainers, and owners who cross over to race both at regulated and unregulated tracks.

The proposed amendment to Board Rule 1902 will prohibit the presence or participation in unsanctioned racing. The intent of the proposed regulation is to provide a pathway for prosecution for any CHRB licensees engaged in the conduct of illegal match racing by permitting the Board of Stewards to adjudicate a claim and render a decision that they believe is just.

NECESSITY

Subsection (d) will be added to prohibit the presence or participation of licensees at any non-recognized race meeting where racing occurs. Subsection (d)(1) will be added to define a “recognized race meet”, pursuant to Board Rule 1420 (u). Subsection (d)(2) will be added to define “racing”, pursuant to Board Rule 1420 (s). Recognized race meets are sanctioned events.

Additionally, Business and Professions Code (BPC) section 19560 will be added to the authority section and BPC sections 19560 and 19660 will be added to the reference section. BPC section 19660 states that it is a misdemeanor to directly or indirectly hold or conduct an unlicensed horse race meeting where there is any form of wagering on the results. BPC section 19560 further mandates that “No person shall, without complying

with this chapter, hold or conduct, or assist, aid, or abet in holding or conducting, any meeting in this State where there is horse racing with wagering on its results.” Though similar to 19660, 19560 has broader application in that it reaches any person who assists, aids, or abets an unlicensed/illegal horse race.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Board relied on PETA’s undercover investigation and report titled “Unsanctioned Horse Racing” dated December 15, 2022.

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 elimination of jobs within the state.
- The proposed regulation will not have an impact on the creation of new businesses or the elimination of existing businesses within the state.
- The proposed regulation will not have an impact on the expansion of businesses currently doing business within the state.
- The proposed regulation will not benefit the health and welfare of California residents, worker safety, or the state’s environment.

The Board has made the initial determination that the proposed regulatory action 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 regulatory action will prohibit the presence at or participation in illegal match racing.

PURPOSE

The proposed regulatory action will prohibit the presence or participation in unsanctioned match racing. The intent of the proposed regulation is to provide a pathway for prosecution for any CHRB licensees engaged in the conduct of illegal match racing by permitting the Board of Stewards to adjudicate a claim and render a decision that they believe is just.

At the December 15, 2022 regular Board meeting, PETA gave a presentation to the Board. In their presentation, PETA outlined a 10-month undercover investigation of unsanctioned horse racing which identified horses that were injected with methamphetamine, cocaine, and Ritalin – all class A medication violations and controlled substances. There was also documentation of the use of electro-shocking devices, a violation of Penal Code 337(f). PETA also stated in their report that there were numerous catastrophic injuries and heart attacks, and the bodies of injured, euthanized horses were

dragged down the track by a tractor in front of all spectators. California has at least 8 known tracks which have unsanctioned races. While CHRB does not have jurisdiction over match racing and unsanctioned racing, they do have jurisdiction over any licensed jockeys, trainers, and owners who cross over to race both at regulated and unregulated tracks.

The proposed amendments to Board Rule 1902 will prohibit the presence at or participation in any non-recognized race meet which would allow the CHRB Stewards to conduct a hearing when a licensee is found in violation of this rule. The CHRB Stewards, at the hearing, can review the evidence and render a decision that they feel is just. Stewards are also permitted under Board regulations to fine and suspend a license, and the Stewards can also refer matters that they feel they don't have a sufficient penalty for to the Board, such as a revocation of licensure. The proposed amendment to Board Rule 1902 would discourage CHRB licensees from participating in unsanctioned match racing as they can be fined up to \$100,000, or have their licenses suspended or revoked. Thus, the proposed regulatory action will discourage CHRB licensees from participating or attending any unsanctioned racing events which will reduce the number of individuals participating in match racing, which will better protect California racehorses, CHRB licensees, the public, and improve the outlook for the horse racing industry as a whole.

CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed regulatory action to Board Rule 1902 would discourage CHRB licensees from participating in match racing as they can be fined up to \$100,000, or have their licenses suspended or revoked. Thus, the proposed regulatory action will discourage CHRB licensees from participating or attending any unsanctioned racing events which will reduce the number of individuals participating in illegal match racing, which will better protect California racehorses, CHRB licensees, the public, and improve the outlook for the horse racing industry as a whole. As such, the proposed regulation will not result in the creation or elimination of jobs within the state.

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

The proposed regulatory action to Board Rule 1902 would discourage CHRB licensees from participating in match racing as they can be fined up to \$100,000, or have their licenses suspended or revoked. Thus, the proposed regulatory action will discourage CHRB licensees from participating or attending any unsanctioned racing events which will reduce the number of individuals participating in match racing, which will better protect California racehorses, CHRB licensees, the public, and improve the outlook for the horse racing industry as a whole. As such, the proposed regulation will not result in the creation of new businesses or the elimination of existing businesses within the state.

EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed regulatory action will prohibit the presence or participation of licensees at any non-recognized race meeting where racing occurs as well as define a “recognized race meet”, pursuant to Board Rule 1420 (u) and “racing”, pursuant to Board Rule 1420 (s). As such, the proposed regulation will not result in the expansion of businesses currently doing business within the state.

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

The proposed regulatory action will prohibit the presence or participation of licensees at any non-recognized race meeting where racing occurs as well as define a “recognized race meet”, pursuant to Board Rule 1420 (u) and “racing”, pursuant to Board Rule 1420 (s). As such, the proposed regulation will not result in the expansion of businesses currently doing business within the state. As such, the proposed regulatory action will not result in benefits to the health and welfare of California residents, worker safety, or 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 regulatory action was discussed at the April 20, 2023 Board meeting. No alternatives to the recommendation were proposed by the Board or by any other individual or entity at the Board 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.

CALIFORNIA HORSE RACING BOARD
June 30, 2023