

CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATIONS
DIVISION 4. CALIFORNIA HORSE RACING BOARD
ARTICLE 16. GENERAL CONDUCT
PROPOSED ADDITION OF RULE 1902,
CONDUCT DETRIMENTAL TO HORSE RACING

The California Horse Racing Board (Board/CHRB) proposes to amend the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1902, Conduct Detrimental to Horse Racing, to prohibit the presence at or participation in illegal match racing.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

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 on **August 28, 2023**. The Board must receive all comments by that time. Submit comments to:

Sidney Villareal, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6008
Email: sdvillareal@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19460, Business and Professions Code (BPC).
Reference: Sections 19440, 19460, and 19572, BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC 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 Horse Racing Law.

Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and control of horse racing and parimutuel wagering. BPC section 19460 states all licenses granted under this chapter are subject to all rules, regulations, and conditions prescribed by the Board. BPC section 19572 permits the Board to provide for the exclusion or ejection from any inclosure, any known bookmaker, known tout, person who has been convicted of a violation of any provision of this chapter or of any law prohibiting bookmaking or any other illegal form of wagering on horse races, or any other person whose presence in the inclosure would in the opinion of the board, be inimical to the interests of the state or of legitimate horse racing, or both.

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. BPC section 19661 explains that any violation of any provision of the Horse Racing Law that does not carry an explicit penalty shall be a misdemeanor, and additionally, the Board may impose up to a \$100,000 fine. Finally, subsection (j) of Rule 1489, Grounds for Denial or Refusal of License, states that the Board may deny (or revoke or suspend via Rule 1900) a license to anyone who violates, aides, abets or conspires to violate any provision of the Horse Racing Law.

The proposed amendment to Board Rule 1902 will prohibit the presence or participation in match racing. 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. 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.

ANTICIPATED BENEFIT OF THE PROPOSED REGULATION

At the December 15, 2022 regular Board meeting, the People for the Ethical Treatment of Animals (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 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 regulatory action will prohibit a CHRB licensee from attending or participating in unsanctioned racing. This will discourage CHRB licensees from participating or attending any unsanctioned racing events which will reduce the number of individuals participating in unsanctioned racing, which will better protect California racehorses, CHRB licensees, the public, and improve the outlook for the horse racing industry as a whole.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the regulatory action, the Board conducted a search of any similar regulations on the topic and concluded that the proposed rule is the only regulation that addresses the participation in match racing. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to local agencies and school districts that must be reimbursed in accordance with Government Code (GC) sections 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 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 CHRB licensees attending or participating in match racing. This 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.

The following studies/relevant data were relied upon in making the above determination: PETA's undercover investigation and report titled "Unsanctioned Horse Racing" dated December 15, 2022.

Cost impact on representative private persons or businesses: none. 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 THE ECONOMIC IMPACT ANALYSIS

The adoption of the proposed regulatory action will not (1) create or eliminate jobs within the state; (2) create new businesses or eliminate existing businesses within the state; (3) result in the expansion of businesses currently doing business with the state; or (4) benefit the health and welfare of California residents, worker safety, or the state's environment. The proposed regulatory action will better protect California racehorses, CHRB licensees, the public, and improve the outlook for the horse racing industry as a whole.

Effect on small business: none. The proposed regulatory action does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation. The proposed regulatory action will prohibit CHRB licensees attending or participating in unsanctioned racing. This will discourage CHRB licensees from participating or attending any non-recognized racing events which will reduce the number of individuals participating in unsanctioned racing, which will better protect California racehorses, CHRB licensees, the public, and improve the outlook for the horse racing industry as a whole.

CONSIDERATION OF ALTERNATIVES

In accordance with GC 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, 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 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:

Sidney Villareal, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6008
Email: sdvillareal@chrb.ca.gov

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

Amanda Drummond, Manager
Regulations, Industry Applications, and Administrative Hearings
Telephone: (916) 869-3255
Email: amdrummond@chrb.ca.gov

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, may be obtained by contacting Sidney Villareal or the alternative contact person at the address, phone number, or email 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 that 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 regulation should be sent to the attention of Sidney Villareal 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 Sidney Villareal 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 website. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.