



TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2009 – 04S

Immediate Adoption of Rules Implementing Safeguards to Ensure Financial Solvency of Horse Racing Permit Holders

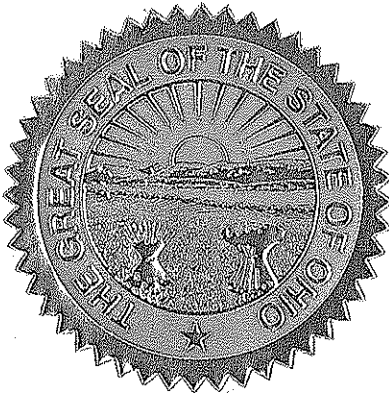
- 1. Regulation of Horse Racing in Ohio.** The Ohio State Racing Commission ("OSRC") is responsible for regulating horse racing in Ohio, ensuring the financial stability of entities that own horse racing tracks, prescribing the rules and conditions under which horse racing may be conducted, and protecting the wagering public by maintaining the integrity of pari-mutuel wagering (a betting pool through which those who bet on competitors share the total bet minus a percentage that is held by the owners of the racetrack). To that end, the OSRC has promulgated various rules relating to the types of wagering which may be conducted, as well as the requirements for obtaining a permit to conduct pari-mutuel wagering in the State.
- 2. Ohio's Horse Racing Industry Is a Contributor of the State's Economic Vitality.** Ohio's horse racing industry provides thousands of jobs to Ohioans, through direct employment with the seven commercial horse racing tracks in Ohio and through indirect services provided by state and local vendors. Additionally, the industry has provided the State with over \$2.7 million per year to support Ohio's PASSPORT program, which assists Medicaid-eligible older Ohioans in getting the long-term services and support they need to stay in their homes.
- 3. The Ohio State Racing Commission is Committed to Ensuring that Horse Racing Permit Holders are Financially Sound.** The financial stability of a permit holder is the starting point for determining if a permit should be granted. As such, Ohio law requires individuals or entities that wish to engage in pari-mutuel wagering to provide the OSRC with proof of their financial stability and solvency. If a permit applicant cannot demonstrate its financial stability, then the OSRC may require the applicant to file a

surety bond to cover any potential obligations. Similarly, Ohio law requires individuals or entities that have already been granted a permit to engage in pari-mutuel wagering to continue demonstrating their financial stability each year, and to file a surety bond in order to cover current obligations to employees, the State and the wagering public, should the permit holder become insolvent. Without proof of a permit holder's financial stability, Ohio is at risk of losing millions of dollars that support critical state programs and ensure the economic well-being of Ohioans who are employed directly or indirectly by the horse racing industry.

4. **Making the New Rules Effective on March 27, 2009.** While current Ohio law and administrative regulations give the OSRC jurisdiction and supervision of all activities associated with commercial horse racing, the rules do not specifically address the Commission's ability to suspend a permit upon a showing of financial insolvency or to reinstate such permit upon a demonstration of financial stability. In order to ensure that the Ohioans employed by or through the horse racing industry, as well as the wagering public, are protected from financially insolvent permit holders who operate Ohio's horse-racing tracks, adoption of new rules in the Ohio Administrative Code must occur immediately.
5. **Procedure for Immediate Enactment of Rule Changes.** Section 119.03(F) of the Ohio Revised Code authorizes the Governor, at the request of an agency, board or commission to suspend the normal rulemaking procedures with respect to a specific rule when an emergency exists necessitating the immediate adoption, amendment or rescission of the rule. When such a determination is made, the agency may immediately adopt, amend, or rescind a rule, but the rule is valid only for ninety (90) days.
6. **Determination of an Emergency.** I believe that that an emergency exists justifying the suspension of the normal rulemaking process when the failure to act immediately would negatively impact the citizens of Ohio. The OSRC has asked me to determine, and I have determined, that the failure to immediately adopt rules regarding additional safeguards to ensure the financial stability of racetrack permit holders will negatively impact Ohioans who are employed by financially insolvent racetracks, as well as Ohioans who rely on state programs that are partially funded by proceeds that Ohio receives from the horse racing industry. Therefore, an emergency exists necessitating the immediate adoption of new administrative rules in this regard.

7. **Authorization for Immediate Rule Implementation.** Accordingly, the normal rule making procedures are suspended with respect to the adoption of Rules 3769-2-11.1 and 3769-2-11.2 of the Ohio Administrative Code, providing the OSRC with authority to suspend a horse racing permit upon a showing of financial insolvency, and reinstate a horse racing permit upon a showing of financial stability. This rule will be electronically filed by Ohio State Racing Commission with the Secretary of State, the Director of Legislative Services Commission and the Joint Committee on Agency Rule Review. OSRC may, therefore, adopt these rules immediately.

8. I signed this Executive Order on March 27, 2009 in Columbus, Ohio, and it will expire at the end for the ninetieth day it is in effect, June 24, 2009.



Ted Strickland
Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State