

**NOTE:** Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public **until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.**

CALIFORNIA HORSE RACING BOARD  
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND  
RULE 1685, EQUIPMENT REQUIREMENT  
RULE 1688, USE OF RIDING CROP

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1685, Equipment Requirement, to revise subsection 1685(b) and (d) to change the text to replace the word “whip” with “riding crop.” The proposed amendment to Rule 1685 also amends subsection (b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. Additionally, the Board proposes to amend Rule 1688, Use of Riding Crop, to make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, November 16, 2017**, or as soon thereafter as business before the Board will permit, at the **Del Mar Surfside Race Place, 2260 Jimmy Durante Blvd., Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

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 at **5:00 p.m. on November 6, 2017**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Nicole Lopes-Gravelly, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397

Fax: (916) 263-6022

E-mail: [nlgravely@chr.ca.gov](mailto:nlgravely@chr.ca.gov)

## AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, and 19562, Business and Professions Code. Reference: Sections 19440, 19441.2, 19481, and 19562, Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code 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 this chapter. Responsibilities of the Board shall include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19441.2 states in its annual report required under section 19441, the Board shall include recommendations concerning the worker safety impacts of improvements in jockey equipment. Business and Professions Code section 19481 provides that in performing its responsibilities, the Board shall establish safety standards governing equipment for horse and rider. Business and Professions Code section 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in California.

The Board proposes to amend Rule 1685 to change the text to replace the word “whip” with “riding crop.” In 2015, the Board amended Rule 1688 to replace the word “whip” with “riding crop.” Whip and riding crop are the same item; however, “riding crop” is more specific, and is the word used by the horse racing industry to describe the tool used to encourage and help maintain control of race horses. However, Rule 1685 has not been updated to reflect the recent changes made to Rule 1688. The proposed amendment to Rule 1685 also amends subsection 1685(b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. Rule 1685 sets the weight, type of flap, and length of whips authorized for use by jockeys which are designed to lessen injury and promote the health and safety of racehorses. The amendment to Rule 1685 is necessary to create consistency between Board rules and to be consistent with similar changes adopted by other racing jurisdictions.

The Board proposes to amend Rule 1688 subsection (b) to make the existing provisions regarding use of the riding crop during a race applicable to both jockeys and exercise riders during training. A new subsection (c) states subsections (b)(2) and (4) shall not apply to jockeys and exercise riders during training. Subsections (b)(2) and (4) are exempt because they identify situations that only occur during a race, and not during training. The purpose of subsection 1688(b) is to curtail and prevent the excessive use of the riding crop. The riding crop is a tool that is used not only to encourage race horses, but also to maintain control. The riding crop is used in certain situations for safety because it provides a measure of control over the horse in

critical situations; however, excessive or inappropriate use of the riding crop presents a horse welfare issue. Under the proposed subsection 1688(b) jockeys and exercise riders will be prohibited from using a riding crop during training on any part of the horse except the shoulders and hind quarters; excessively or brutally causing welts or breaks in the skin; persistently even though the horse is showing no response under the riding crop; or more than three times in succession without giving the horse a chance to respond before using the riding crop again. This is necessary because race horses are in training several hours or more a day, five to seven days a week. In addition to ensuring the humane treatment of the horse, it is necessary to update Rule 1688 to apply the same provisions required of jockeys during a race to jockeys and exercise riders during training in order to maintain consistency within the rule.

## POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1685 and Rule 1688, Equipment Requirement, will revise subsection 1685(b) and (d) to change the text to replace the word “whip” with “riding crop.” The proposed amendment to Rule 1685 will also amend subsection (b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. The proposed amendment to Rule 1688, Use of Riding Crop, will make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training. The proposed amendment to Rule 1685 and Rule 1688 promotes the protection of jockey, exercise rider, and horse health and safety. The Board considers animal welfare and good sportsmanship fundamental for the success of horse racing. The proposed amendment to Rule 1685 and 1688 provides direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress. If the safety practices of riders improve, the public will see horse racing as a sport that cares, which may result in an increase of attraction to the sport. An increase of attraction to the sport could result in an increase in wagering which will have a positive economic impact on the industry.

## CONSISTENCY EVALUATION

During the process of developing these regulations and amendments, the CHRB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

## DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 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 amendment to Rule 1685 and 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 following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: 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 ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 1685 and Rule 1688 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Rule 1685 and Rule 1688 is a benefit to the health and welfare of California residents because it promotes the protection of jockey, exercise rider, and horse health and safety. The proposed amendments provide direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress; therefore, these regulations will increase the safety and welfare of equine athletes and their riders.

Effect on small businesses: none. The proposal to amend Rule 1685 and Rule 1688 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 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, or would be as effective and less burdensome on 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 PERSON

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:

Nicole Lopes-Gravely, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300

Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6022  
E-mail: [nlgravely@chr.ca.gov](mailto:nlgravely@chr.ca.gov)

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

Laurel Houle, Regulation Analyst  
Policy and Regulations  
Telephone: (916) 274-6043

#### 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 on, may be obtained by contacting Nicole Lopes-Gravely, or the alternative contact person at the address, phone number or e-mail 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 which 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 regulations. Requests for copies of any modified regulations should be sent to the attention of Nicole Lopes-Gravely 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 available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Nicole Lopes-Gravely 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 web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

## INITIAL STATEMENT OF REASONS

RULE 1685. EQUIPMENT REQUIREMENT.

RULE 1688. USE OF RIDING CROP.

## SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to amend Rule 1685, Equipment Requirement, to revise subsection 1685(b) and (d) to change the text to replace the word “whip” with “riding crop.” The proposed amendment to Rule 1685 also amends subsection (b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. Additionally, the Board proposes to amend Rule 1688, Use of Riding Crop, to make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training.

## PROBLEM

The Board is proposing to amend Rule 1685 to change the text to replace the word “whip” with “riding crop” and require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. In 2015, the Board amended Rule 1688 to replace the word “whip” with “riding crop.” Whip and riding crop are the same item; however, “riding crop” is more specific, and is the word used by the horse racing industry to describe the tool used to encourage and help maintain control of race horses. However, Rule 1685 has not been updated to reflect the recent changes made to Rule 1688. Currently, Rule 1688 limits the number of times a jockey may use the riding crop on a horse before they must give the horse a chance to respond, and restricts where on a horse the jockey may use the crop, as well as other prohibitions meant to protect the horse. However, these restrictions only apply to jockeys during the running of a race. No equivalent rules apply to exercise riders or jockeys when the horses are training. It is a priority of the Board to ensure humane treatment of the horse. Therefore, the Board is proposing to amend Rule 1688 to make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training.

## NECESSITY

The Board proposes to amend Rule 1685 to change the text to replace the word “whip” with “riding crop.” “Riding crop” is more specific, and is the word used by the horse racing industry to describe the tool used to encourage and help maintain control of race horses. The proposed amendment to Rule 1685 also amends subsection 1685(b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. This will ensure the safeguards currently in place for racing are extended to training. Rule 1685 sets the weight, type of flap, and length of whips authorized for use by jockeys which are designed to lessen injury and promote the health and safety of racehorses. The amendment to Rule 1685 is necessary to create consistency between Board rules, and to be consistent with similar changes adopted by other racing jurisdictions.

The Board proposes to amend Rule 1688 subsection (b) to make the existing provisions regarding use of the riding crop during a race applicable to both jockeys and exercise riders during training. This is necessary because race horses are in training several hours a day, five to

seven days a week. A new subsection (c) states subsections (b)(2) and (4) shall not apply to jockeys and exercise riders during training. Subsections (b)(2) and (4) are exempt because they identify situations that only occur during a race, and not during training. The purpose of subsection 1688(b) is to curtail and prevent the excessive use of the riding crop. The riding crop is a tool that is used not only to encourage race horses, but also to maintain control. The riding crop is used in certain situations for safety because it provides a measure of control over the horse in critical situations; however, excessive or inappropriate use of the riding crop presents a horse welfare issue. Under the proposed subsection 1688(b) jockeys and exercise riders will be prohibited from using a riding crop during training on any part of the horse except the shoulders and hind quarters; excessively or brutally causing welts or breaks in the skin; persistently even though the horse is showing no response under the riding crop; or more than three times in succession without giving the horse a chance to respond before using the riding crop again. In addition to ensuring the humane treatment of the horse, it is necessary to update Rule 1688 to apply the same provisions required of jockeys during a race to jockeys and exercise riders during training in order to maintain consistency within the rule.

All other changes to Rule 1685 and Rule 1688 are for the purposes of clarity and consistency.

#### BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment to Rule 1685 and Rule 1688 promotes the protection of jockey, exercise rider, and horse health and safety. The Board considers animal welfare and good sportsmanship fundamental for the success of horse racing. The proposed amendment to Rule 1685 and 1688 provides direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress. If the safety practices of riders improve, the public will see horse racing as a sport that cares, which may result in an increase of attraction to the sport. An increase of attraction to the sport could result in an increase in wagering which will have a positive economic impact on the industry.

#### 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.

#### 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 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 to Rule 1685 and 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 to Rule 1685 and Rule 1688 promotes the protection of jockey, exercise rider, and horse health and safety by providing direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress. The amendment to Rule 1685 and Rule 1688 will only impact jockeys and exercise riders and as such only has an effect on horseracing and not any other type of California business.

Purpose:

The proposed amendment to Rule 1685 and Rule 1688, Equipment Requirement, will revise subsection 1685(b) and (d) to change the text to replace the word “whip” with “riding crop.” The proposed amendment to Rule 1685 will also amend subsection (b) to require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race. The proposed amendment to Rule 1688, Use of Riding Crop, will make the existing provisions regarding use of the riding crop (except subsections (b)(2) and (b)(4)) applicable to both jockeys and exercise riders during training. These changes will increase the safety and welfare of both equine and human athletes, as well as the wagering public.

The Creation or Elimination of Jobs Within the State of California

The proposed amendment to Rule 1685 and Rule 1688 will require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race, and will make the existing provision regarding use of the riding crop applicable to both jockeys and exercise riders during training. This regulation will only affect jockeys and exercise riders and as such only has an effect on horseracing and not any other type of California business. Therefore, CHRB has determined that this regulatory proposal 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 1685 and Rule 1688 will require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race, and will make the existing provision regarding use of the riding crop applicable to both jockeys and exercise riders during training. This regulation will only affect jockeys and exercise riders and as such only has an effect on horseracing and not any other type of California business. Therefore, CHRB has determined this regulatory proposal 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 1685 and Rule 1688 will require that riding crops used during training meet the same regulatory standards as riding crops used during the running of a race, and will make the existing provision regarding use of the riding crop applicable to both jockeys and exercise riders during training. This regulation will only affect jockeys and exercise riders

and as such only has an effect on horseracing and not any other type of California business. Therefore, CHRB 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 Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed amendment to Rule 1685 and Rule 1688 is a benefit to the health and welfare of California residents because it promotes the protection of jockey, exercise rider, and horse health and safety. The proposed amendments provide direction on the appropriate type and use of the riding crop so that it will be used for safety, correction, or to encourage the horse without causing distress; therefore, these regulations will increase the safety and welfare of equine athletes and their riders. These regulations do 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 or 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 Rule 1685 and Rule 1688 was discussed at the December 15, 2016, 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 which offer any alternative proposal.

California Horse Racing Board  
September 22, 2017

CALIFORNIA HORSE RACING BOARD  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
ARTICLE 8. RUNNING THE RACE  
PROPOSED AMENDMENT TO  
RULE 1685. EQUIPMENT REQUIREMENT

1685. Equipment Requirement.

(a) No bridle shall weigh more than two (2) pounds.

(b) Riding crops ~~Whips~~ allowed for use in flat racing and training shall be unaltered from the original manufacturer; shall have shaft and flap (popper); shall weigh no more than 8 ounces and shall not be more than 30 inches in length.

(1) The minimum diameter of the shaft shall be 0.5 inches, with a smooth, padded contact area that has no protrusions or raised surface.

(c) The only allowed attachment to the shaft is the flap (popper), which shall not extend more than 1 inch beyond the end of the shaft.

(1) The flap (popper) shall have a width of not less than 1 inch, or more than 1.5 inches; shall have a minimum length of 7 inches; and a minimum circumference of 3 inches measured around the width. The flap (popper) shall have no reinforcements or additions beyond the end of the shaft, and no binding within 7 inches of the end of the shaft.

(2) The flap (popper) shall be folded over and sewn down each side. It shall have an inner layer consisting of memory foam, closed cell foam, or a similar shock-absorbing material, and an outer layer that is dark in color and made of a material that does not harden over time.

(d) All riding crops ~~whips~~ are subject to inspection and approval by the stewards.

Authority: Sections 19420 and 19440,  
Business and Professions Code.

Reference: Sections 19441.2 and 19481,  
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
ARTICLE 8. RUNNING THE RACE  
PROPOSED AMENDMENT TO  
RULE 1688. USE OF RIDING CROP

1688. Use of Riding Crop.

(a) In all races where a jockey will not ride with a riding crop, an announcement shall be made over the public address system of such fact.

(b) Although the use of a riding crop is not required, any jockey or exercise rider who uses a riding crop during a race or training is prohibited from using a riding crop on a horse:

- (1) on the head, flanks, or on any parts of its body other than the shoulders or hind quarters;
- (2) during the post parade except when necessary to control the horse;
- (3) excessively or brutally causing welts or breaks in the skin;
- (4) when the horse is clearly out of the race or has obtained its maximum placing;
- (5) persistently even though the horse is showing no response under the riding crop; or
- (6) more than three times in succession without giving the horse a chance to respond before using the riding crop again.

(c) Subsections (b)(2) and (4) shall not apply to jockeys and exercise riders during training.

(~~d~~e) Correct uses of the riding crop are:

- (1) showing horses the riding crop before hitting them;
- (2) using the riding crop in rhythm with the horse's stride; and
- (3) using the riding crop as an aid to maintain a horse running straight.

Authority: Sections 19420, 19440 and 19562,  
Business and Professions Code.

Reference: Sections 19440, 19481 and 19562,  
Business and Professions Code.