

## INITIAL STATEMENT OF REASONS

### RULE 1699. RIDING RULES

#### SPECIFIC PURPOSE OF THE REGULATIONS

The Board proposes to amend Rule 1699, Riding Rules. The amendment provides that the stewards may discipline a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey.

#### PROBLEM

Board Rule 1699 provides guidelines for the jockey's conduct during the running of the race. The regulation states that a jockey may be suspended or otherwise disciplined by the stewards if he or she rides in a manner contrary to the rule. However, subsection 1699(f) does not currently provide for a minimum penalty for a first violation within a contiguous 60 day calendar period. While this has allowed the stewards to exercise their discretion in assessing penalties against jockeys for initial riding offenses, it has also resulted in a lack of uniformity in such penalties statewide. The minimum rough riding penalty at a northern track may be more, or less severe than one doled out at a southern track for the same riding offense. To provide for a uniform statewide penalty for a jockey's first rough riding infraction within a contiguous 60 day calendar period, the Board proposes to amend subsection 1699(f) to state the stewards shall issue a minimum suspension of two riding days when penalizing a jockey for riding contrary to the rule.

#### NECESSITY

Safety is always a concern for a jockey riding in a race. The jockey must constantly be aware of track conditions, how his or her mount is responding, and how other horses and riders are performing. There is always the possibility that he or she may be involved in a situation that can cause injury or a fatality. Falling off a horse that is running at 40 miles per hour is a risk jockeys take every race. Between 2007 and 2011 California licensed jockeys could expect to have a fall every 502 rides in thoroughbred races and every 318 rides in quarter horse races. Fifty one percent of such falls resulted in jockey injury, and most falls occurred during a race. The majority of jockey injury is associated with injury or death of the horse. Such incidents may occur for many reasons, and while the condition of the horse is paramount, rough riding significantly increases the possibility of harm or injury to horse and rider. Board Rule 1885, Rough Riding, defines rough riding as a deliberate act in violation of any riding rule, or any willful or wanton act which is the proximate cause of any racing accident or injury to any jockey or his mount during the running of a race. When the stewards determine a jockey has ridden close to, but not quite at the level of being careless, they may correct the jockey by issuing a warning. In disciplining a jockey for rough riding, the stewards have relied on suspending the jockey for a number of race days. The stewards have not used fines, as winning riders would be happy to pay a fine and keep riding.

Additionally, using fines as discipline for rough riding may not be equitable; the value of a dollar is different for a jockey making \$100,000 and a jockey making much less. Suspensions are seen as an appropriate method of discipline that stops the behavior or incentivizes riders not to engage in behavior that is hazardous to the jockey, his mount and others riding in a race. The purpose of issuing suspension days for careless riding is to make racing safer for the horse and jockey. When stewards issue suspension days, they are promoting good riding skills; boundaries are set, and jockeys learn those boundaries and ride accordingly. If the stewards are consistent in setting the boundaries and issuing suspensions for careless riding, horse racing in general benefits due to the promotion of safety and good sportsmanship on the track.

Board Rule 1699 sets forth guidelines for the jockey's conduct during the running of the race. The regulation provides that a jockey may be suspended or otherwise disciplined by the stewards if he or she rides in a manner contrary to the rule. However, Rule 1699 does not currently provide for a minimum penalty for a first violation within a contiguous 60 day calendar period. While this has allowed the stewards to exercise their discretion in assessing penalties against jockeys for initial riding offenses, it has also resulted in a lack of uniformity in such penalties statewide. The minimum penalty at a northern track may be more, or less severe than one doled out at a southern track for the same riding offense. To provide a uniform minimum penalty for initial riding infractions, the Board determined it is necessary to amend subsection 1699(f) to state the stewards shall issue a minimum suspension of two riding days when penalizing a jockey for riding contrary to the rule. In establishing two race-days as the minimum penalty, the Board emphasized that its intention was to set boundaries that would teach a lesson, but would not put a jockey out of businesses. Jockeys are considered independent contractors for purposes other than workers' compensation insurance. California jockeys supply their own equipment, solicit rides at race meetings of their choice, and they negotiate their own rate of compensation. (Rule 1632, Jockey's Riding Fee, applies in the absence of a contract or special agreement.) The Board determined that a minimum suspension of two race-days for a first offense within any contiguous 60 day calendar period would be an appropriate penalty for all but the most egregious riding infractions, without being draconian or oppressive. Many of California's tracks run only three days a week during a race meeting, so a penalty of more than two days would mean a jockey might lose a week's wages; fewer than two days would result in a penalty with no practical value. Under Rule 1699, the stewards will retain their ability to issue greater penalties for more serious riding infractions. Subsection 1699(f) also states the stewards shall issue a suspension greater than the minimum penalty for subsequent violations of the rule within any contiguous 60 day calendar period, or any infraction which jeopardized the safety of another horse or jockey. The proposed amendment to subsection 1699(f) will provide for a uniform minimum penalty while allowing the stewards to exercise their discretion regarding suspensions for subsequent violations of the rule within any contiguous 60 day calendar period, or any infraction which, in the opinion of the stewards, jeopardized the safety of another horse or jockey.

#### **BENEFITS ANTICIPATED FROM THE REGULATORY ACTION**

The proposed amendment to Rule 1699 will benefit California's jockeys and equine athletes by promoting safe riding during horse races. The proposed amendment will provide a statewide uniform minimum suspension of two race-days for a first rough riding offense within any contiguous 60 day calendar period. The minimum penalty will provide consistency and clarity for

jockeys and stewards, and will act as a tool to teach good riding habits. Safe riding during horse races will help protect the safety of horse and rider, and will help to ensure the viability of the state's horse racing industry. The proposed amendments provide consistency with current Board regulations in that jockeys who are brought before the stewards for rough riding infractions are currently subject to suspension of license.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board relied on the study: Jockey Falls, injuries, and Fatalities Associated with Thoroughbred and Quarter Horse Racing in California, 2007-2011. J.D. Wheat Veterinary Orthopedic Research Laboratory, School of Veterinary Medicine, University of California-Davis, Davis, California, USA, in proposing the amendment to Rule 1699.

#### ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment of Rule 1699 will not (1) impact the creation or eliminate jobs within the State of California; (2) impact the creation of new businesses or eliminate existing businesses in California; (3) impact the expansion of businesses currently doing business in California; (4) the proposed amendment will benefit the health and welfare of California's licensed jockeys, but will otherwise not benefit the health and welfare of California residents or benefit the State's environment.

#### PURPOSE

The proposed amendment to Rule 1699 will ensure that jockeys who are reprimanded for rough riding in a horse race will face a uniform minimum penalty for a first offense within any contiguous 60 day calendar period. The proposed amendment provides that a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey, may be disciplined by the stewards. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey.

#### CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Board Rule 1699 provides that a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey, may be disciplined by the stewards. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey. The proposed amendment will not affect the creation or elimination of jobs within the State of California, as it deals solely with the penalty for a first offense rough riding violation within a contiguous 60 day calendar period.

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

The proposed amendment to Board Rule 1699 provides that a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey, may be disciplined by the stewards. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey. The proposed amendment will not affect the creation of new or elimination of existing businesses within the State of California, as it deals solely with the penalty for a first offense rough riding violation within a contiguous 60 day calendar period.

## EXPANSION OF BUSINESSES OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Board Rule 1699 provides that a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey, may be disciplined by the stewards. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey. The proposed amendment will not affect the expansion of businesses or elimination of existing businesses within the State of California, as it deals solely with the penalty for a first offense rough riding violation within a contiguous 60 day calendar period.

## INITIAL DETERMINATION

The Board has made an initial determination that the proposed amendment to Board Rule 1699 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 provides that a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey, may be disciplined by the stewards. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey. The proposed amendment will provide consistency with current Board regulations in that jockeys are currently subject to suspension of license when in violation of the Board's riding rules.

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

The proposed amendment provides that a jockey who rides in a manner contrary to the regulation in a careless or willful manner, or who strikes or strikes at another horse or jockey, may be disciplined by the stewards. When penalizing a jockey for riding contrary to the rule, the stewards shall issue a minimum suspension of two race-days, and shall issue a penalty greater than the minimum if the jockey has committed more than one riding infraction within a contiguous 60 day calendar period, or the infraction, in the opinion of the stewards, jeopardized the safety of another horse or jockey. The proposed amendment will provide consistency and clarity with regards to the penalty for a first offense rough riding violation within a contiguous 60 day calendar period.

Based on the above facts detailed in the Economic Impact Analysis, the Board has made an initial determination that the proposed amendment to Board Rule 1699 will not have a significant statewide adverse economic impact directly affecting business including the ability of California business to compete with businesses in other states. The proposed regulation will benefit the health and welfare of California residents riding in horse races by promoting safe riding practices. The proposed regulation will 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 there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed amendment to Rule 1699 was discussed at the August 2017 Regular Board Meeting. No alternatives to the recommendations were proposed by the Board or by any other individual or entity. 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  
December 22, 2017