



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 462

OREGON RACING COMMISSION

FILED

03/08/2023 12:23 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amends 462-120-0055 (2) (a) changes to state law regarding disposal of fingerprint cards.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/26/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Amends language to reflect changes to state law regarding disposal of fingerprint cards.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Stored electronically and available upon request

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

No Affect

FISCAL AND ECONOMIC IMPACT:

No impact

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

no cost to comply

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

small businesses were not involved

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Not needed. State law required change in this procedure.

AMEND: 462-120-0055

RULE SUMMARY: Amends 462-120-0055 (2) (a) to reflect changes to state law . Removes outdated language and replaces with current language regarding disposal of fingerprint cards.

CHANGES TO RULE:

462-120-0055

State and Nationwide Criminal Records Checks; Fitness Determinations ¶¶

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the commission.¶¶

(2) Fingerprints may be required of applicants on a case-by-case basis in order to complete a national criminal background investigation. In the case of a corporation or partnership, fingerprints may be required from the authorized agent and any other individual shareholder or owner the commission or its designated representative may deem appropriate.¶¶

(a) These fingerprints will be provided on prescribed forms made available to the commission. Fingerprints may be obtained by designated commission staff, a law enforcement office, or at a private service acceptable by the commission. The commission will submit fingerprints to the Oregon Department of State Police to conduct a national criminal records check. ~~Any original~~ Following the submission, all fingerprint cards will ~~subsequently be destroyed by the Oregon Department of State Police.~~ Racing Commission. All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative. The costs of the criminal record check, including a nationwide fingerprint-based criminal records check, shall be the responsibility of the commission.¶¶

(b) The board of stewards on behalf of the commission shall determine whether an applicant or licensee is fit to be granted a license based on criminal records background check, racing license history, financial records, any false statements made by the applicant or licensee regarding his/her background, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If a licensee is determined to be unfit, the applicant may not be granted a license. The applicant may be granted the ability to conduct business in his occupational category on a temporary basis until such time as the background investigation is complete.¶¶

(c) In order to conduct the Oregon and national criminal records check and fitness determination, the commission may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.¶¶

(d) The commission may consider any conviction of any violation of the law for which the court could impose a punishment. When making a fitness determination based on criminal record, the commission shall consider:¶¶

(A) The nature of the crime;¶¶

(B) The facts that support the conviction or pending indictment or that indicate the making of the false statement;¶¶

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and¶¶

(D) Intervening circumstances relevant to the responsibilities and circumstances of the license, intervening circumstances include but are not limited to:¶¶

(i) The passage of time since the commission of the crime;¶¶

(ii) The age of the applicant or licensee at the time of the crime;¶¶

(iii) The likelihood of a repetition of offenses or of the commission of another crime;¶¶

(iv) The subsequent commission of another relevant crime;¶¶

(v) Whether the conviction was set aside and the legal effect of setting aside the conviction.¶¶

(E) If the applicant discontinues the application process or fails to cooperate with the criminal records check process, the application is considered incomplete.

Statutory/Other Authority: ORS 462.270(3)

Statutes/Other Implemented: ORS 462.020