

CHAPTER 80**(HB 472)**

AN ACT relating to the regulation of horse racing in Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 230.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Association" means any person licensed by the Kentucky Horse Racing Authority under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;
- (2) "Authority" means the Kentucky Horse Racing Authority;
- (3) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;
- (4) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;
- (5) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;
- (6) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Horse Racing Authority, and may include thoroughbred, harness, and quarter horse racing;
- (7) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;
- (8) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;
- (9) "Track" means any association duly licensed by the Kentucky Horse Racing Authority to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon authority approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area;
- (10) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;
- (11) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;
- (12) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;
- (13) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;
- (14) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;
- (15) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;

- (16) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;
- (17) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:
- (a) The chairman and all members of the board of directors of a corporation;
 - (b) All partners of a partnership and all participating members of a limited liability company;
 - (c) All trustees and trust beneficiaries of an association;
 - (d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
 - (e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, **five percent (5%)**~~ten percent (10%)~~ or more of stock or financial interest in the collective organization; and
 - (f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;~~and~~
- (18) "Kentucky Quarter Horse Purse Program" means a purse program established to receive funds from the authority for purse programs established in KRS 230.3771(4) to supplement purses for quarter horse races. The purse program shall be administered by the Kentucky Quarter Horse Racing Association;
- (19) *"Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the authority, and may place a pari-mutuel wager through that account that is permitted by law;*
- (20) *"Advance deposit account wagering licensee" means a person or entity licensed by the authority to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts; and*
- (21) *"Secondary pari-mutuel organization" or "SPMO" means an advance deposit account wagering licensee, a hub as defined in KRS 230.775, or any entity other than a licensed association or simulcast facility that offers and accepts pari-mutuel wagers. "SPMO" includes any off-track wagering system or advance deposit account wagering system, regardless of whether the off-track or advance deposit account wagering system is affiliated with a licensed association.*

➔Section 2. KRS 230.240 is amended to read as follows:

- (1) In addition to the employees referred to in KRS 230.230, the executive director of the authority may employ, dismiss, or take other personnel action and determine the reasonable compensation of stewards, supervisors of mutuels, veterinarians, inspectors, accountants, security officers, and other employees deemed by the executive director to be essential at or in connection with any horse race meeting and in the best interest of racing. ***Three (3) thoroughbred stewards shall be employed at each thoroughbred race meeting. Two (2) stewards shall be employed and compensated by the Commonwealth, subject to reimbursement by the racing associations pursuant to subsection (3) of this section. One (1) thoroughbred steward shall be employed and compensated by the racing association hosting the race meeting. Three (3) standardbred judges shall be employed at each standardbred race meeting. Two (2) standardbred judges shall be employed and compensated by the Commonwealth, subject to reimbursement by the racing associations pursuant to subsection (3) of this section. One (1) standardbred judge shall be employed and compensated by the racing association hosting the race meeting.*** The security officers shall be peace officers and conservators of the peace on authority property and at all race tracks and grounds in the Commonwealth and shall possess all the common law and statutory powers and privileges now available or hereafter made available to sheriffs, constables, and police officers for the purpose of enforcing all laws relating directly or indirectly to the conduct of horse racing and pari-mutuel wagering thereon, or the enforcement of laws relating to the protection of persons or property on premises licensed by the authority. The authority, for the purpose of maintaining integrity and honesty in racing, shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In

addition, the authority shall be responsible for seeing that racing officials employed under the provisions of this section have adequate training to perform their duties in a competent manner.

- (2) The authority shall promulgate administrative regulations for effectively preventing the use of improper devices, and restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. The authority may acquire, operate, and maintain, or contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with the laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under this chapter in the manner and in proportions as the authority shall by administrative regulation provide.
- (3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the horse race meeting in connection with which the employees are utilized or employed. The salary of the executive director to the authority shall be prorated among and paid by the various associations licensed under this chapter in the manner as the authority shall, by administrative regulation, provide. ***Except for the thoroughbred steward and the standardbred judge authorized in subsection (1) of this section,*** the employees referred to in this section shall be deemed employees of the authority, and are paid by the licensee or association for convenience only.
- (4) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.

➔Section 3. KRS 230.260 is amended to read as follows:

The authority, in the interest of breeding or the improvement of breeds of horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including, but without limitation, the following:

- (1) The authority is vested with jurisdiction and supervision over all horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the authority, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;
- (2) ***The authority is vested with jurisdiction over any SPMO that offers and accepts pari-mutuel wagers on races conducted at any racing association within the Commonwealth. An SPMO under the jurisdiction of the authority shall be licensed by the authority, and the authority may impose a license fee on an SPMO not to exceed ten thousand dollars (\$10,000) annually. The authority shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of SPMOs, and a fee schedule for applications for licensure;***
- (3) ***The authority is vested with jurisdiction over any totalisator company that provides totalisator services to a racing association located in the Commonwealth. A totalisator company under the jurisdiction of the authority shall be licensed by the authority, regardless of whether a totalisator company is located in the Commonwealth or operates from a location or locations outside of the Commonwealth, and the authority may impose a license fee on a totalisator company. The authority shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of totalisator companies, and a fee schedule for applications for licensure;***
- (4) ***The authority is vested with jurisdiction over any manufacturer, wholesaler, distributor, or vendor of any equine drug, medication, therapeutic substance, or metabolic derivative which is purchased by or delivered to a licensee or other person participating in Kentucky horse racing by means of the Internet, mail delivery, in-person delivery, or other means;***
- (5) ***The authority is vested with jurisdiction over any horse training center or facility in the Commonwealth that records official timed workouts for publication;***

- (6) *The authority may require an applicant for a license under subsections (2) and (3) of this section to submit to a background check of the applicant, or of any individual or organization associated with the applicant. An applicant shall be required to reimburse the authority for the cost of any background check conducted;*
- (7) The authority, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee, *or any person owning a horse or performing services regulated by this chapter on a horse registered to participate in a breeders incentive fund under the jurisdiction of the authority* ~~for the purpose of satisfying itself that this chapter and its administrative regulations are strictly complied with;~~
- (8)~~(3)~~ The authority shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;
- (9)~~(4)~~ Applications for licenses shall be made in the form, in the manner, and contain information as the authority may, by administrative regulation, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the authority;
- (10)~~(5)~~ The authority shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;
- (11) *The authority may refuse to issue or renew a license, revoke or suspend a license, impose probationary conditions on a license, issue a written reprimand or admonishment, impose fines or penalties, deny purse money, require the forfeiture of purse money, or any combination thereof with regard to a licensee or other person participating in Kentucky horse racing for violation of any federal or state statute, regulation, or steward's or authority's directive, ruling, or order to preserve the integrity of Kentucky horse racing or to protect the racing public. The authority shall, by administrative regulation, establish the criteria for taking the actions described in this subsection*~~(6) — Any of the foregoing administrative regulations, to the extent they are promulgated, shall be promulgated, amended, or repealed in conformity with KRS Chapter 13A;~~
- (12)~~(7)~~ The authority may issue subpoenas for the attendance of witnesses before it and *for the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities related to pari-mutuel horse racing within the Commonwealth. The authority may* administer oaths to witnesses *and require witnesses to testify under oath* whenever, in the judgment of the authority, it is necessary to do so for the effectual discharge of its duties;
- (13)~~(8)~~ The authority shall have authority to compel any racing association licensed under this chapter to file with the authority at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association; *and*
- (14)~~(9)~~ The authority shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight.

➔Section 4. KRS 230.265 is amended to read as follows:

- (1) There is hereby created a panel, to be known as the Kentucky Equine Drug Research Council, to advise the authority on the conduct of equine drug research and testing commissioned by the Kentucky Horse Racing Authority. The council shall consist of nine (9) members appointed by the Governor. It is recommended that the Governor appoint one (1) veterinarian from a list of three (3) submitted by the Kentucky Association of Equine Veterinarians, one (1) horseman from a list of three (3) submitted by the Kentucky division of the Horsemen's Benevolent and Protective Association, one (1) pharmacologist from a list of three (3) submitted by the University of Kentucky, one (1) thoroughbred breeder from a list of three (3) submitted by the Kentucky Thoroughbred Owners and Breeders, Inc., one (1) legislator from a list of three (3) submitted by the Legislative Research Commission, one (1) representative of a licensed racing association chosen by the Governor, one (1) member of the harness racing industry from a list of three (3) submitted by the chairman of the Kentucky Horse Racing Authority, one (1) member from a list of three (3) submitted by the Kentucky Harness Horsemen's Association, and one (1) member of the Kentucky Horse Racing Authority, from a list of three (3) submitted by the chairman of the Kentucky Horse Racing Authority, to serve as chairman. The

council shall meet at the call of the chairman, a majority of the council, or at the request of the authority. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

- (2) The Kentucky Equine Drug Research Council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the authority on drug research and testing research being conducted elsewhere. The council shall advise the authority and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the General Assembly any needed changes regarding the regulation of drugs in horse racing in the Commonwealth of Kentucky.
- (3) The authority shall receive one-tenth of one percent (0.1%) of the total amount wagered and subject to the pari-mutuel tax levied in KRS 138.510. This money shall be deducted from the pari-mutuel tax levied in KRS 138.510 and shall be used in ***Kentucky for financing drug research, testing research, equine medical research, and equine health research issues, or any regulatory or administrative activity of the authority that is related to the racing industry in Kentucky. The money received under this subsection***~~and testing research in Kentucky and~~ shall be in addition to any funds appropriated to the authority for these purposes in the executive budget.

➔Section 5. KRS 230.290 is amended to read as follows:

All licenses granted under this chapter:

- (1) Shall be in writing;
- (2) Shall be subject to all administrative regulations and conditions as may from time to time be prescribed by the authority;
- (3) Shall contain conditions as may be considered necessary or desirable by the authority for purposes of this chapter; and
- (4) No license shall extend beyond the end of the calendar year for which it was issued, ***unless the license expires on the last date of the birth month of the licensee, in which case it may expire on that date.***~~but~~ The authority may renew any license and any renewal shall not be construed to be a waiver or condonement of any violation which occurred prior to renewal and shall not prevent subsequent proceedings against the licensee therefor.

➔Section 6. KRS 230.300 is amended to read as follows:

- (1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the authority for a license to do so. The application shall be filed at the authority's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the authority. The application shall include the following information:
 - (a) The full name and address of the person making application;
 - (b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;
 - (c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the authority;
 - (d) The proposed hours of each racing day and the number of races to be conducted;
 - (e) The names and addresses of all principals associated with the applicant or licensee;
 - (f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

- (g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and
 - (h) Any other information that the authority by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.
- (2) An application for license shall be accompanied by the following documents:
- (a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:
 - 1. The net worth of the applicant;
 - 2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and
 - 3. The proposed or current financing structure for the operation and the sources of financing.
 - (b) For a license renewal applicant, an audited financial statement for the prior year;
 - (c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;
 - (d) A statement from the Department of Revenue that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;
 - (e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.
- (3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.
- (4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the authority within thirty (30) days of the change.
- (5) The authority shall as soon as practicable, but in no event later than November 1 in any calendar year, award dates for racing in the Commonwealth during the next year. In awarding dates, the authority shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the authority may award after November 1 additional racing dates to make up for those dates canceled.
- (6) The authority may issue a license to conduct a horse race meeting to any association making the aforesaid application if the applicant meets the requirements established in KRS 138.530 and other applicable provisions of this chapter, and if the authority finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth.
- (7) As a condition precedent to the issuance of a license, the authority may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.
- (8) *The authority may impose a fee and shall establish, by administrative regulation promulgated in accordance with KRS Chapter 13A, a fee schedule for association license applications.*
- (9) *The authority may require an applicant for an association license to submit to a background check of the applicant, or of any principal, individual, or organization associated with the applicant. The authority shall not require a background check for any individual who is a principal as defined in Section 1 of this Act but*

owns stock or financial interest in the applicant of less than ten percent (10%). An applicant shall be required to reimburse the authority for the cost of any background check conducted.

- (10) Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track that is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.
- ~~(11)(9)~~ A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the authority may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.
- ~~(12)(10)~~ Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.
- ~~(13)(11)~~ The authority may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this authority.
- ~~(14)(12)~~ Every horse race not licensed under this section is hereby declared to be a public nuisance and the authority may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

➔Section 7. KRS 230.310 is amended to read as follows:

- (1) Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, ***or in any other capacity as the authority shall from time to time establish by administrative regulation,*** shall first apply to the authority for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the authority fingerprints as may be required and other information necessary and reasonable for processing a license application. The authority is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The authority may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.
- (2) A license ~~may~~***shall*** be issued for the calendar year ***for which an applicant applies or, if authorized by administrative regulation, a license may be issued that expires on the last day of the birth month of the licensee. A license***~~in which it is issued and~~ may be renewed by the authority. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the authority under this chapter. With respect to horse owners and trainers, the authority may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

➔Section 8. KRS 230.320 is amended to read as follows:

- (1) Every license granted under this chapter is subject to denial, revocation, or suspension, ***and every licensee or other person participating in Kentucky horse racing may be assessed an administrative fine and required to forfeit or return a purse,*** by the authority in any case where it has reason to believe that any provision of this chapter, administrative regulation, or condition of the authority affecting it has not been complied with or has

been broken or violated. *The authority may deny, revoke, or suspend a license for failure by the licensee or other person participating in Kentucky horse racing to pay an administrative fine imposed upon the licensee by the stewards or the authority.* The authority, in the interest of honesty and integrity of horse racing, may promulgate administrative regulations under which any license may be denied, suspended, or revoked, *and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse.*

- (2) (a) *Following a hearing by the stewards, a person who has been disciplined by a ruling of the stewards may apply to the authority for a stay of the ruling, pending action on an appeal by the authority.*
- (b) *An application for a stay shall be received by the executive director or his designee within ten (10) calendar days of the issuance of the stewards' ruling.*
- (c) *An application for a stay shall be in writing and include the following:*
 1. *The name, address, telephone number, and signature of the person requesting the stay;*
 2. *A statement of the justification for the stay; and*
 3. *The period of time for which the stay is requested.*
- (d) *On a finding of good cause, the executive director or his designee may grant the stay. The executive director or his designee shall issue a written decision granting or denying the request for stay within five (5) calendar days from the time the application for stay is received by the executive director or his designee. If the executive director or his designee fails to timely issue a written decision, then the stay is deemed granted. The executive director or his designee may rescind a stay granted under this subsection for good cause.*
- (e) *A person who is denied a stay by the executive director or his designee, or has a previously granted stay rescinded under paragraph (d) of this subsection, may petition the authority to overrule the executive director's or designee's denial or rescission of the stay. The petition shall be filed in writing with the chairperson of the authority and received by the chairperson within ten (10) calendar days of the mailing of the executive director's or designee's denial of the stay. The petition shall state the name, address, phone number, and signature of the petitioner; a statement of justification of the stay; and the time period for which the stay is requested. The chairperson shall convene a special meeting of the authority within ten (10) calendar days of receipt of the petition, and the authority shall issue a written final order granting or denying the petition within two (2) calendar days of the special meeting. If the authority fails to timely issue a final order on the petition, then the stay is granted. The authority may rescind a stay granted under this subsection for good cause.*
- (f) *A person who is denied or has a previously granted stay rescinded by the authority may file an appeal of the final written order of the authority in the Circuit Court of the county in which the cause of action arose.*
- (g) *The fact that a stay is granted is not a presumption that the ruling by the stewards is invalid.*~~[Following an informal hearing by the stewards, any licensee alleged to have committed a violation under subsection (1) of this section may request a stay of imposition of the stewards' decision. Pending appeal, a hearing on the request for stay shall be held within forty eight (48) hours of the receipt of the request for a stay by the authority. If the authority is not able to hold a hearing within forty eight (48) hours, the stay shall be automatically granted. It shall be the policy of the authority to grant stays, unless:~~
 - ~~(a) A licensee is alleged to have committed a flagrant violation of the duly promulgated administrative regulations of racing which presents a clear and present danger to the immediate integrity of racing; and~~
 - ~~(b) It is impossible for the authority to secure necessary scientific evidence or indispensable witnesses within forty eight (48) hours;~~~~then the authority or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial stewards' determination of a violation.]~~
- (3) *If any license is denied, suspended, or revoked, or if any licensee or other person participating in Kentucky horse racing is assessed an administrative fine or required to forfeit or return a purse,* after a ~~an informal~~ hearing by the stewards or by the authority acting on a complaint or by its own volition, the authority shall

grant the applicant,~~or~~ licensee, **or other person** the right to appeal the decision, and upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

- (4) *The authority may at any time order that any case pending before the stewards be immediately transferred to the authority for an administrative hearing conducted in accordance with KRS Chapter 13B.*
- (5) (a) *In an administrative appeal to the authority by a licensee or other person participating in Kentucky horse racing, the authority may determine in its final order that the appeal is frivolous. If the authority finds that an appeal is frivolous:*
 - 1. *This fact shall be considered an aggravating circumstance and may be considered in assessing any penalty against the licensee; and*
 - 2. *The licensee or other person who raised the appeal may be required to reimburse the authority for the cost of the investigation of the underlying circumstances of the case and the cost of the adjudication of the appeal. Costs may include but are not limited to fees paid to a hearing officer or court reporter, attorneys fees, and laboratory expenses.*
- (b) *The authority shall by administrative regulation prescribe the conditions or factors by which an appeal may be determined to be frivolous.*
- (6) *Any administrative action authorized in this chapter shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.*

➔Section 9. KRS 230.3615 is amended to read as follows:

- (1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the association which operates a race track under the jurisdiction of the Kentucky Horse Racing Authority and conducts the thoroughbred racing at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime, shall not be more than sixteen percent (16%) at the discretion of those tracks averaging over one million two hundred thousand dollars (\$1,200,000) in on-track pari-mutuel handle per day of live racing conducted by the association. The commission at those tracks averaging one million two hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association, at the discretion of such track, shall not be more than seventeen and one-half percent (17.5%) in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime.
- (2) The commission at those tracks averaging over one million two hundred thousand dollars (\$1,200,000) in on track pari-mutuel handle per day of live racing conducted by the association, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation, or association which operates a race track under the jurisdiction of the Kentucky Horse Racing Authority and conducts thoroughbred racing at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent (19%) of the gross handle in races where the patron is required to select two (2) or more horses, and the breaks, which breaks shall be made and calculated to the dime. The commission, at those tracks averaging one million two hundred thousand dollars (\$1,200,000) or less in on track pari-mutuel handle per day of live racing conducted by the association, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the association which operates a race track under the jurisdiction of the Kentucky Horse Racing Authority and conducts thoroughbred racing at which betting is conducted through a pari-mutuel or other similar system shall not exceed twenty-two percent (22%) of the gross handle in races where the patron is required to select two (2) or more horses, and the breaks, which breaks shall be made and calculated to the dime.
- (3) The minimum wager to be accepted by any licensed association ~~shall~~~~may~~ be **ten cents (\$0.10)**~~one dollar (\$1)~~. The minimum pay-off on a one dollar (\$1) wager shall be one dollar and ten cents (\$1.10); but, in the event of a minus pool, the minimum pay-off for a one dollar (\$1) wager shall be one dollar and five cents (\$1.05).
- (4) Each association conducting thoroughbred racing and averaging one million two hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association shall pay to the authority all moneys allocated to the backside improvement fund in an amount equal to one-half of one percent (0.5%) of its on-track pari-mutuel wagers.

➔Section 10. KRS 230.990 is amended to read as follows:

- (1) Any person who violates KRS 230.070 or KRS 230.080(3) shall be guilty of a Class D felony.
- (2) Any person who violates KRS 230.090 shall be guilty of a Class A misdemeanor.
- (3) Any person who violates KRS 230.680 shall be guilty of a Class A misdemeanor.
- (4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be guilty of a Class A misdemeanor.
- (5) Any person failing to appear before the authority at the time and place specified in the summons issued pursuant to KRS 230.260(13)~~(13)(7)~~, or refusing to testify, shall be guilty of a Class B misdemeanor. False swearing on the part of any witness shall be deemed perjury and punished as such.
- (6)
 - (a) A person is guilty of tampering with or interfering with a horse race when, with the intent to influence the outcome of a horse race, he uses any device, material, or substance not approved by the Kentucky Horse Racing Authority on or in any participant involved in or eligible to compete in a horse race to be viewed by the public.
 - (b) Any person who, while outside the Commonwealth and with intent to influence the outcome of a horse race contested within the Commonwealth, tampers with or interferes with any equine participant involved in or eligible to compete in a horse race in the Commonwealth is guilty of tampering with or interfering with a horse race.
 - (c) Tampering with or interfering with a horse race is a Class C felony.

➔Section 11. KRS 355.9-408 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:
 - (a) Would impair the creation, attachment, or perfection of a security interest; or
 - (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.
- (2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.
- (3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:
 - (a) Would impair the creation, attachment, or perfection of a security interest; or
 - (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.
- (4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) of this section would be effective under law other than this article but is ineffective under subsection (1) or (3) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:
 - (a) Is not enforceable against the person obligated on the promissory note or the account debtor;

- (b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;
 - (c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
 - (d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;
 - (e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
 - (f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.
- (5) This section prevails over any inconsistent provisions of the following statutes and any administrative regulations based on those statutes: KRS 56.230(2), 138.320(3), 138.665(4), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 228.070(2), 230.300~~(11)~~~~(9)~~, 234.330(10), 243.630(2), 260.815, 286.4-460(2), 292.320(2)(b), 286.8-036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(27), and 286.9-070(2).
- (6) Subsection (3) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

➔Section 12. KRS 230.777 is amended to read as follows:

- (1) Except as otherwise provided in KRS 230.775 to 230.785, the provisions of KRS 230.378, 230.379, and 230.380 shall apply to the establishment of authorized hub accounts for residents of the Commonwealth of Kentucky.
- (2) Accounts may be established for individuals outside of the Commonwealth of Kentucky, including foreign jurisdictions, if:
 - (a) Pari-mutuel wagering on horse racing is lawful in the jurisdiction of the account holder's principal residence; and
 - (b) The hub complies with the Interstate Horseracing Act, 15 U.S.C. secs. 3001 to 3007. The call center used in the operations of the hub shall not be located on state property. ~~[No more than four (4) hubs shall be licensed in the Commonwealth at any one (1) time.]~~

Signed by the Governor March 24, 2009.