

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)**

810 KAR 2:020. Thoroughbred and flat racing officials.

RELATES TO: KRS 230.215, 230.240, 230.260

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize[authorizes]the Kentucky Horse Racing Commission (the "commission") [~~commission~~] to promulgate administrative regulations prescribing conditions under which all horse racing is conducted in Kentucky[~~the Commonwealth~~]. This administrative regulation establishes the qualifications, duties, powers, and responsibilities of racing officials.

Section 1. Racing Officials.

(1) Racing officials at a thoroughbred or other flat race meeting shall include:

- (a) Steward;
- (b) Racing secretary;
- (c) Assistant racing secretary;
- (d) Clerk of scales;
- (e) Paddock judge;
- (f) Starter;
- (g) Placing judge;
- (h) Timer;
- (i) Identifier;
- (j) Veterinarian;
- (k) Assistant starter;
- (l) Jockey room custodian;
- (m) Jockey room employee;
- (n) Valet; and
- (o) Outrider.

(2) Persons appointed by the association to serve as racing officials during a race meeting shall:

- (a) First be approved by the commission;
- (b) Serve only so long as approved by the commission; and
- (c) Be under the supervision of the stewards.

(3) While serving as a racing official, a person shall not:

(a) Indirectly or directly, own a beneficial interest in:

- 1. A horse of the breed in which the person is engaged as a racing official; or
- 2. An association under his or her supervision;
 - (b) Cause to be bought or sold, for himself or another, a horse under his or her supervision;
 - (c) Buy or sell, for himself or another, a right to, or contract with, a jockey or apprentice jockey under his or her supervision;
 - (d) Wager on a race under his or her supervision;
 - (e) Write or solicit horse insurance; or
 - (f) Have a monetary interest in a business which seeks the patronage of horsemen or racing associations.

(4) A racing official serving in the capacity of steward, placing judge, clerk of scales, starter, or horse identifier shall take and satisfactorily pass an optical examination within one (1) year

prior to the race meeting at which he or she serves. The examination shall show corrected twenty-twenty (20-20) vision and an ability to distinguish colors correctly.

(5) A racing official who desires to leave his or her employment during the race meeting shall notify the stewards; if a vacancy occurs among racing officials other than stewards, the association shall promptly appoint a successor, subject to approval of the commission. If the association does not appoint a successor in time to permit the orderly conduct of racing, then the stewards shall immediately appoint a temporary successor.

(6) A racing official shall not officiate in multiple capacities on any one (1) race. The stewards may, in case of emergency, approve a racing official to serve in more than one (1) capacity until such time as an additional official can be appointed by the association and approved by the commission.

Section 2. Racing Secretary.

The racing secretary shall be responsible for:

- (1) The programming of races during the race meeting;
- (2) Compiling and publishing condition books;
- (3) Assigning weights for handicap races;
- (4) Receiving entries, subscriptions, declarations, and scratches;
- (5) Safekeeping of registration certificates, virtual or digital certificates, and racing permits for horses, recording information required on the certificates and permits, and returning the certificates and permits to owners at the conclusion of the race meeting;
- (6) Maintaining a record of stakes fees received, arrears, jockeys' fees, purchase money in claiming races, and other monies received incident to the race meeting, and making available payment to those persons entitled thereto within fourteen (14) days after the conclusion of the race meeting;
- (7) Supervision of the horsemen's bookkeeper's handling of the "horseman's account";
- (8) Daily posting of entries for the benefit of the public as soon as possible after entries have been closed and declarations have been made;
- (9) Assigning stall applicants stabling as he or she may deem proper after consultation with the stewards, and maintaining a record of arrival and departure of all horses stabled on association grounds; and
- (10) Publishing the official daily program, and ensuring that it contains accurate information of the following:
 - (a) Sequence of races to be run and post time for the first race;
 - (b) Purse, conditions, and distance for each race, and current track record for the distance;
 - (c) The full name of licensed owners of each horse, indicated as lessee if applicable, and description of racing colors to be carried;
 - (d) The full name of the trainer and the jockey named for each horse together with the weight to be carried;
 - (e) Notices that:
 1. Jockeys will carry approximately three (3) pounds more than the published weight to account for safety helmets and safety vests that are not included in required weighing out procedures; and
 2. Upon approval of the stewards, a jockey may be allowed up to three (3) pounds additional clothing and equipment for inclement weather or track conditions;
 - (f) The saddle cloth number or designation for each horse, and the post position for each horse, if there is a variance with the saddle cloth designation;
 - (g) Identification of each horse by name, color, sex, age, sire, and dam; and

(h) Other information as may be requested from time to time by the association or the commission including changes of equipment, use of permitted race day medications, and wagering types available.

Section 3. Clerk of Scales. The clerk of scales shall be responsible for:

- (1) The security, regulation, and control of the jockeys' room, its equipment, and the determination of which personnel are permitted access;
- (2) Weighing out a jockey no later than fifteen (15) minutes prior to the race in which the jockey is scheduled to ride and recording all overweights, which shall immediately be posted and announced to the public before each race;
- (3) Weighing in a jockey immediately after the finish of each race in which the jockey rode and promptly notifying the stewards whether a jockey weighed in underweight;
- (4) Safekeeping of all racing colors;
- (5) Reporting all color changes or jockey changes from that listed in the official daily program and causing the changes to be posted and announced to the public before each race;
- (6) Supervision of all valets and the issuance of numbered saddle cloths and equipment for each horse;
- (7) Ensuring accuracy of the scales and periodic tests of them;
- (8) Submitting to the racing secretary at the close of each racing day a statement of weight carried in each race by each jockey, noting overweight, if any; and
- (9) Immediately transmitting all complaints, protests, objections, or disputes submitted to the clerk of scales to the stewards, and if the stewards are unavailable, to the commission.

Section 4. Paddock Judge. The paddock judge shall have general supervision of the paddock and shall be responsible for:

- (1) Assembling the horses and jockeys in the paddock no later than fifteen (15) minutes before the scheduled post time for each race;
- (2) Maintaining a written record of all equipment for each horse saddled, inspecting all the equipment, and reporting any changes in the equipment to the stewards;
- (3) Inspecting the bandages of each horse. The paddock judge may order the bandages removed or replaced;
- (4) Paddock schooling of horses approved for schooling by the stewards; and
- (5) Ensuring that the saddling of horses is orderly, open to public view and free from interference, and ensuring that horses are mounted at the same time and leave the paddock for the post in proper sequence.

Section 5. Starter.

- (1) The starter shall be responsible for the fair and equal start of horses in a race at the scheduled starting time by means of a starting gate and bell, or other device activated by his or her signal.
- (2) So far as practical, the starter shall cause horses to be loaded in order of post position, except the starter may in his or her discretion load an unruly or fractious horse out of order or may start the unruly or fractious horse on the outside of the starting gate and one (1) length behind the starting line. With permission of the stewards, a race may be started without a starting gate. The starter may employ as many assistant starters as needed and shall daily change the gate position of each assistant starter without notice to the assistant starters until the field for the first race comes upon the track.
- (3) A horse shall not be permitted to start in a race unless approval is given by the starter. The starter shall maintain a schooling list that shall be posted in the racing secretary's office

listing the names of horses ineligible to start due to inadequate training at leaving the gate. Horses shall be schooled under the supervision of the starter or his or her assistants.

(4) The starter shall:

(a) Have constant radio or telephone communication with the stewards from the time the horses leave the paddock until the field is sent away;

(b) Report to the stewards any disobedience of his or her orders or attempts to take unfair advantage at the starting gate and recommend penalties for offenders.

(5) An assistant starter shall not handle a horse until instructed to do so by the starter.

(6) A starter or assistant starter shall not:

(a) Accept a gratuity or payment other than his regular salary, directly or indirectly, for services in starting a race;

(b) Wager on a race; or

(c) Strike a jockey or use abusive language to a jockey.

(7) The starter shall maintain a written record showing the names of starters during the day and the names of the assistant starters who handled each horse. This record shall be made available to the stewards upon request.

Section 6. Placing Judges.

(1) Three (3) placing judges shall occupy a stand directly above the finish line during the running of each race. The placing judges shall:

(a) Take special note of racing colors and distinguishing equipment carried by each horse;

(b) Determine the order of the horses as they cross the finish line by consideration of the respective noses of the horses; and

(c) Cause the numbers of the first four (4) horses to cross the finish line to be posted on the result board. The numbers of additional horses shall be posted in their correct order of finish if necessitated by an exotic wager.

(2) A photo finish camera approved by the commission shall be used as an aid by the placing judges in determining the order of the horses as they cross the finish line. Placing judges may request a photo to assist in determining margins of less than a half-length (1/2).

Section 7. Timer.

(1) The timer shall occupy a stand directly above the finish line during the running of each race to record the official time.

(2) The timer shall:

(a) Record the fractional time of leading horses during each race and the final time of the first horse to cross the finish line; and

(b) Maintain a written record of fractional and final times of each race and have them available for inspection by the stewards or commission on request.

(3) The timer may use an electrical or mechanical timing device approved by the commission as an aid in determining the official time of each race.

Section 8. Horse Identifier.

(1) The commission may employ a horse identifier who shall be responsible for the proper identification of all horses entered to be raced.

(2) The horse identifier may accompany the commission veterinarian on the prerace examination of all starters.

(3) The horse identifier shall:

(a) Certify that each starter in the paddock matches its registration certificate, virtual or digital certificate, or racing permit by examining the horse's:

1. Sex, age, color, markings, and lip tattoo or microchip; and

2. Photographs as an aid in identification.

(b) Notify the paddock judge and the stewards if he or she has any doubt as to the identity of a horse entered to be raced;

(c) Be responsible for the safekeeping and return to owners at the conclusion of the race, the following:

1. Registration certificates, virtual or digital certificates, or racing permits; and

2. Racing permits for horses; and

(d) Record information from registration certificates, virtual or digital certificates, and racing permits.

JONATHAN RABINOWITZ, Chair

KERRY HARVEY, Secretary

APPROVED BY AGENCY: October 29, 2020

FILED WITH LRC: October 29, 2020 at 8:55 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at January 21, 2021 at 9:00 a.m. EST at Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on January 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the category of "racing officials" at horse races in the Commonwealth and sets forth the responsibilities of the more important of these officials.

(b) The necessity of this administrative regulation: This regulation is necessary to precisely define who racing officials are and to set forth their responsibilities in presiding over and assisting with horse races in the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) authorizes the Commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted in the Commonwealth. This administrative regulation sets forth qualifications, duties, and authority of racing officials who assist in the conduct of horse races in the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of

the statutes by ensuring that race officials perform certain duties to promote the efficiency and integrity of horse races in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: First, Section 1(6) is amended to preclude racing associations from assigning a racing official to work in more than one (1) position during a race. The amendment allows for multiple-capacity work during a race in the event of an emergency. However, the amendment will prevent racing associations from making an emergency assignment into a permanent one. Second, Section 8 is amended to state that the Commission may approve a horse identifier hired by the association, who will be responsible for properly identifying all horses entered to be raced.

(b) The necessity of the amendment to this administrative regulation: The amendment to Section 1 is necessary for at least two (2) reasons. First, an official working multiple jobs increases the possibility of errors, which negatively affects the integrity of racing. Second, this amendment preserves the Commission's initial approval of racing officials, which almost always includes different people working in every position. The amendment to Section 8 is necessary because the horse identifier provision was inadvertently removed during the Red Tape Reduction initiative in the previous administration. The amendment seeks to correct that error and preserve the horse identifier position, which is important to ensure racing integrity.

(c) How the amendment conforms to the content of the authorizing statutes: Both proposed amendments constitute conditions under which horse racing will be conducted in the Commonwealth. Therefore, this amendment conforms to KRS 230.215(2).

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendments will improve racing integrity, and better preserve the Commission's initial approvals of racing officials.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Commission is affected by this administrative regulation, and any licensed participant in horse racing is potentially affected by this administrative regulation. In 2017, the Commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: To comply with the proposed amendments, licensed racing associations will be required to hire and retain one official per position and will need to seek Commission approval for anyone working in a horse identifier position.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Racing associations are required to employ the racing officials whose duties are set forth in this administrative regulation. No other significant costs are associated with performing the prescribed duties.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance with the proposed regulatory amendments, integrity in horse racing will be preserved. This benefits the associations, the patrons, and the Commonwealth as a whole.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any new fees or increase any current fees to participate.

(9) TIERING: Is tiering applied? Tiering is not applied, because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.240, and 230.260 requires or authorizes the action taken by this regulation.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? No cost will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No cost will be required to administer this regulation for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: