

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

810 KAR 5:080. Kentucky Proud Series~~[Harness racing at county fairs].~~

RELATES TO: KRS 230.215, 230.260, 230.280, 230.290, 230.310, 230.398

STATUTORY AUTHORITY: KRS 230.215, 230.260, 230.398

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission (the "commission") to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.398 authorizes the commission to promulgate administrative regulations governing the conduct of county fair races, branded as the "Kentucky Proud Series."~~[.]~~ This administrative regulation establishes conditions, ~~[races,]~~ purses, and payments in races conducted as part of the Kentucky Proud Series,~~[at county fairs]~~ in which funds for purses are provided by the commission, and regulates eligibility for participation in the Kentucky Proud Series~~[harness racing at county fairs].~~

Section 1. Eligibility. A horse is eligible to participate in a two (2) or three (3) year old Kentucky Proud Series stakes race~~[at a county fair]~~ if the [:

(1) ~~The~~ horse is a two (2) year old or a three (3) year old that is "Kentucky-bred" as defined in 810 KAR 7:040[;]

(2) ~~All owners of the participating horse are current members of the Kentucky Colt Racing Association, Inc.;~~

(3) ~~All owners of the participating horse hold a current license with the commission; and~~

(4) ~~The trainer and driver of the participating horse hold current licenses with the commission].~~

Section 2. Track Requirements.

(1) A fair shall have a safe and adequate track, and the entire track, including start and finish lines, shall be visible to judges and spectators.

(2) The track shall be inspected and approved by a representative of the commission.

(3) A track shall have a hub rail or pylons approved by the commission.

(4)(a) A fair shall have safe and adequate stalls for participating horses.

(b) If permanent stalls are not available, tents or other tie-in type stalls may be used.

(c) Except as provided by paragraph (d) of this subsection, a county fair shall not charge stall rent for horses racing at the fair.

(d) A county fair may charge stall rent if the fair is held on state-owned property.

Section 3. ~~[Fair Fees.~~

(1) ~~The Kentucky Colt Racing Association fees shall be as follows:~~

(a) ~~A nomination fee of fifty (50) dollars per horse due on or before February 15 of each racing year;~~

(b) ~~A sustaining fee of \$200 per horse due on or before April 15 of each racing year;~~

(c) ~~A starting fee of fifty (50) dollars per horse, per fair, due at the time of entry for the fair; and~~

(d) ~~A twenty-five (25) dollar fee per horse for starting in an overnight race, due at the time of entry for the fair.~~

(2) ~~A \$200 payment shall be due at the time of entry for a horse eligible for the fair finals.~~

~~Section 4.]Officials.~~

~~(1) The host track[Kentucky Colt Racing Association] shall submit to the commission, at least sixty (60) days prior to the opening of a race meeting, a written list of racing officials and applicable employees.~~

~~(2) 810 KAR 2:050 shall govern the judges and racing officials at Kentucky Proud Series stakes races.[At a county fair, there shall be at least one (1) presiding judge approved by the commission in the judges' stand. In addition, at a meeting in which races are charted, the association member shall provide both a licensed charter and licensed clerk of the course.~~

~~(3) A fair shall use licensed United States Trotting Association judges to preside over the racing.~~

~~(4) The judges shall review the ownership of any horse that is entered in order to ensure the horse's eligibility to race.~~

~~(5) The judges may determine the validity for racing purposes of any lease, transfer, or agreement pertaining to ownership of a horse and may call for adequate evidence of ownership at any time.~~

~~(6) The judges may declare a horse ineligible to race if the ownership or control of the horse is in question.]~~

~~(3)[(7)] Officials shall be paid by the entity hosting the races, with the exception of judges. Judges shall be paid by the commission. The Commission shall determine the number of judges, notwithstanding any provision of 810 KAR 2:050 to the contrary [Kentucky Colt Racing Association.~~

~~Section 5. Starter. A fair shall use a licensed starter with adequate equipment.~~

~~Section 6. Use of Entry Fees:~~

~~(1) The entry fees established in Section 3(1)(c) and (d) of this administrative regulation shall be retained by each fair as compensation for conducting its harness racing program and in reimbursement of the expenses incurred.~~

~~(2) A fair shall, upon request, make a full accounting of the entry fees to the commission.~~

~~Section 7. Application for a License and Approval for Purse Distributions:~~

~~(1) The Kentucky Colt Association on behalf of a fair shall apply to the commission for a license to conduct a harness racing event. A request for pari-mutuel wagering shall be included at the time of application.~~

~~(2) Distribution of revenue for the Kentucky County Fairs shall be reviewed annually, not later than December 15 of each calendar year, by the advisory panel established in 810 KAR 7:040].~~

~~Section 4[8]. Requirements. All races shall be held in accordance with KRS Chapter 230 and 810 KAR Chapters 2, 3, 5, 6, 7, and 8[Changes in Racing Program. A fair shall have the right to change the order of its program and to postpone or cancel an event due to bad weather or unavoidable cause. If a race is canceled because of lack of entries, entry fees shall be refunded.~~

~~Section 9. Early Closers:~~

~~(1) An early closing event, and all divisions of that event, shall race a single heat at a distance of one (1) mile and shall be contested for a purse approved by the commission on an annual basis.~~

~~(2) An early closing race shall be contested regardless of the number of entries. However, a fair may cancel an overnight race with less than five (5) entries].~~

Section 5[10]. Kentucky Sire Stakes Panel.

~~(1) No later than December 15 of each calendar year, the Kentucky Sire Stakes advisory panel established in 810 KAR 7:040 may annually address, and the commission may annually approve, at least the following conditions, which may be placed in the condition book for the following year:[Number of Starters and Purse Distributions. There shall be no more than two (2) trailers in any race at a county fair.~~

~~(1) On a one (1) mile track, there shall be ten (10) horses on the gate and the race shall split on eleven (11) horses.~~

~~(2) On a half mile track or five-eighths mile track, there shall be five (5) horses on the gate with two (2) trailers, and the race shall split on eight (8) horses.]~~

~~(a)[(3)] The purse for each race;~~

~~(b) Race dates;~~

~~(c) Fees, such as nomination, sustaining, starting, and finals fees;~~

~~(d) Distribution of revenue for the Kentucky Proud Series;~~

~~(f) Early closers; and~~

~~(g) Other conditions necessary to participate in the Kentucky Proud Series.[-shall be divided as follows:~~

~~(a) Five (5) starters – fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and five (5) percent;~~

~~(b) Four (4) starters – fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and the remaining five (5) percent reverts back to the fund;~~

~~(c) Three (3) starters – fifty (50) percent, twenty-five (25) percent, twelve (12) percent, and the remaining thirteen (13) percent reverts back to the fund;~~

~~(d) Two (2) starters – fifty (50) percent, twenty-five (25) percent, and the remaining twenty-five (25) percent reverts back to the fund; and~~

~~(e) One (1) starter – fifty (50) percent, and the remaining fifty (50) percent reverts back to the fund.~~

Section 11. Points Distribution.

~~(1) Points shall be awarded in an early closing race, and any division of an early closing race, as follows:~~

~~(a) First place finisher – fifty (50) points;~~

~~(b) Second place finisher – twenty-five (25) points;~~

~~(c) Third place finisher – twelve (12) points;~~

~~(d) Fourth place finisher – eight (8) points;~~

~~(e) Fifth place finisher – five (5) points; and~~

~~(f) Each starter that finishes out of the money – one (1) point.~~

~~(2) If two (2) horses dead-heat for any position, they shall each receive one-half (1/2) of the points awarded for that position and one-half (1/2) of the points awarded for the next lower position. The same procedure shall be used for the allocation of points if there is a dead-heat of three (3) or more horses.~~

~~(3) A horse that is declared in and then is the subject of a judge's scratch shall be awarded one (1) point based upon the decision of the presiding judge. This decision shall be final.~~

~~(4) If there is a tie among two (2) or more horses with the same number of points, the tie shall be resolved in favor of the horse with the higher earnings in the early closing fair events in which the horses have competed.~~

~~(5) If any division of a race is rained out before the completion of all other divisions of that race, the points for distribution set forth in this section shall not apply, and instead one (1) point shall be awarded to each horse entered in each division of that race that was rained out.~~

~~Section 12. Entry Limitation. A horse shall not be allowed to compete in more than one (1) race at any fair.]~~

~~Section 6[43]. Drug Testing.~~

~~(1) The winning horse at a fair race and any other horse or horses as selected by the judges may be subjected to a drug test as set forth in 810 KAR 8:010 and 810 KAR 8:060.~~

~~(2) A fair shall provide two (2) enclosed stalls and bedding to be used by the commission veterinarian for drug testing.~~

~~(3) The stalls required by subsection (2) of this section shall be located as close to the race track as possible.~~

~~(4) The stalls shall be positioned to allow the track announcer to be heard.~~

~~(5) The expense of the testing 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 entity operating harness races under this administrative regulation.~~

~~Section 14. Coggins Test. A current negative Coggins test shall be required for each horse racing at a fair.~~

~~Section 15. Drivers. A driver shall wear full colors, white pants, a safety vest as required by 810 KAR 5:070 Section 17, and a safety helmet that meets the standards set forth in 810 KAR 5:070 Section 16, if on the track less than one (1) hour before the start of a fair racing program.~~

~~Section 16. Trophies. A fair shall provide a trophy or blanket to the winner of a race. If a race is contested in heats or divisions, the trophy shall be presented to the winner of the fastest heat or division.~~

~~Section 17. Early Deadlines. The deadline for entries at a fair shall be set by the Kentucky Colt Racing Association at its annual October meeting preceding the racing year.~~

~~Section 18. Programs. A county fair track holding races for purses shall provide a printed program available to the public containing the following information:~~

~~(1) For non pari-mutuel tracks:~~

~~(a) Horse's name and sex;~~

~~(b) Color and age of horse;~~

~~(c) Sire and dam of horse;~~

~~(d) Owner's name;~~

~~(e) Driver's name and colors;~~

~~(f) Trainer's name; and~~

~~(g) Summary of starts in purse races, earnings, and the best win time for the current and preceding year, which may be earned in either a purse or nonpurse race; and~~

~~(2) For pari-mutuel tracks:~~

~~(a) All of the program information required by subsection (1) of this section;~~

~~(b) At least the last six (6) performance and accurate chart lines. An accurate chart line shall include:~~

~~1. Date of race;~~

- ~~2. Location of race;~~
- ~~3. Size of track if other than a one-half (1/2) mile track;~~
- ~~4. Symbol for free-legged pacers;~~
- ~~5. Track condition;~~
- ~~6. Type of race;~~
- ~~7. Distance;~~
- ~~8. The fractional times of the leading horse including race times;~~
- ~~9. Post position;~~
- ~~10. Position of the one-quarter (1/4) marker, the one-half (1/2) marker, and the three-quarters (3/4) marker;~~
- ~~11. Stretch with lengths behind leader;~~
- ~~12. Finish with lengths behind leader;~~
- ~~13. Individual time of the horse;~~
- ~~14. Closing dollar odds;~~
- ~~15. Name of the driver;~~
- ~~16. Names of the horses that placed first, second, and third by the judges; and~~
- ~~17. Standard symbols for breaks and park-outs, if applicable;~~
- ~~(c) Indicate drivers racing with a provisional license; and~~
- ~~(d) Indicate pacers that are racing without hobbles.~~

~~Section 19. Payments. Nomination and sustaining payments shall be made to the Kentucky Colt Racing Association. Entry fees shall be paid to the fair for which the entry is taken.]~~

Section ~~7~~[20]. Violations. A person or association that violates a provision of this administrative regulation shall be subject to the penalties set forth in 810 KAR 8:030, Section ~~1~~[40].

JONATHAN RABINOWITZ, Chair

KERRY HARVEY, Secretary

APPROVED BY AGENCY: March 3, 2021

FILED WITH LRC: March 12, 2021 at 3:54 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on May 24, 2021 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 May 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 regulation prescribes the conditions under which harness racing in the Kentucky Proud Series shall be conducted in Kentucky. Specifically, KRS 230.398 authorizes the commission to promulgate regulations establishing eligibility requirements for horses participating in harness racing at county fairs. This regulation establishes the eligibility requirements to race in the county fairs.

(b) The necessity of this administrative regulation: This regulation is a necessary exercise of the statutory authority of the commission set forth in KRS 230.215, which requires the commission to “promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth of Kentucky,”; and the statutory authority set forth in KRS 230.398, which states that “[t]he racing commission shall have the authority to promulgate administrative regulations as may be necessary for the conduct of these races.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the statutory authority granted to the commission by KRS 230.215 and KRS 230.398.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation will assist in the effective administration of statutes by providing eligibility requirements and rules for harness racing at county fairs.

(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: This proposed amendment seeks to rebrand the harness races as the “Kentucky Proud Series.” The amendment also removes obsolete and duplicative references and provisions. For instance, all references to the Kentucky Colt Racing Association are removed. Additionally, this proposed amendment removes several sections that are more appropriate for a racing condition sheet or condition book, and makes them available for the panel to decide on a yearly basis.

(b) The necessity of the amendment to this administrative regulation: This proposed amendment is necessary to clean up obsolete and duplicative material. It is also necessary to provide the commission with more latitude to adapt to changing conditions as it relates to the Kentucky Proud racing series.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment prescribes conditions under which racing and pari-mutuel wagering will be conducted, pursuant to KRS 230.215. Additionally, this amendment is a regulation establishing eligibility conditions for horse participating in harness racing at county fairs under KRS 230.298.

(d) How the amendment will assist in the effective administration of the statutes: This proposed amendment provide the commission with more latitude to adapt to changing conditions as it relates to the Kentucky Proud racing series.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect: standardbred breeders, standardbred owners; boarding farm owners and employees; Kentucky veterinarians and equine healthcare facilities; horse transportation companies; farriers, farmers and suppliers of hay, feed, and grain; equine supply companies; daily maintenance care and tack; Kentucky standardbred sale companies; retail stores and maintenance services; the Kentucky counties hosting the fair; hotels and gas stations located near the county fairs; and state and local government entities that impose payroll taxes.

(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: This administrative regulation expands the racing opportunities for owners and trainers of Kentucky-bred standardbred horses. All other entities identified in (3) will not require any additional responsibilities, but will reap the benefits of a stronger breeding industry in Kentucky, as well as a supported fair circuit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: None of the entities identified in (3) will incur any new costs in complying with this proposed amendment. Rather, this proposed amendment offers more racing opportunities for Kentucky-bred standardbred horses.

(c) As a result of compliance, what benefits will accrue to the entities: The entities identified in question (3) will benefit from a clearly defined set of regulatory requirements and guidelines concerning Standardbred racing at county fairs.

(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 amendment.

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

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This proposed amendment will not require a source of funding for implementation and enforcement.

(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: This proposed amendment will not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? NA

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 and the counties that conduct harness racing as part of their annual county fairs 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. The statutory authority for this administrative regulation is found in KRS 230.215, 230.260, and 230.398.

(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? Although there are no fees that will generate revenue for the state or local governments, there will be an increase in payroll taxes and potential tourism dollars for all counties participating in Kentucky Proud Series harness racing.

(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? Continued growth in the program will increase payroll taxes and potential tourism dollars for all counties participating in Kentucky Proud Series harness racing.

(c) How much will it cost to administer this program for the first year? There will be no new costs to the agency to administer this program. The commission has been administering the Kentucky Proud Series since 2020.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to the agency to administer this program. The commission has been administering the Kentucky Proud Series since 2020.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None