

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)**

810 KAR 6:030. Pari-mutuel wagering.

RELATES TO: KRS 230.300, 230.361, 230.3615, 230.370, 230.398, 230.750

STATUTORY AUTHORITY: KRS 230.210, 230.215, 230.361, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission (the "commission") to regulate conditions under which horse racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and KAR Title 810, Chapter 6.

Section 1. Pari-Mutuel System of Wagering Required.

(1) The only wagering permitted on live or historical horse races shall be under the pari-mutuel system of wagering. All systems of wagering other than pari-mutuel shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be ejected and excluded from association grounds.

(2) Wagering conducted in conformity with KRS Chapter 230 and KAR Title 810 is pari-mutuel.

Section 2. Totalizator or Other Approved Equipment Required.

(1) Pari-mutuel wagering on live and historical horse races shall only be conducted through the use of a totalizator or other similar mechanical equipment approved by the commission pursuant to KRS 230.361.

(2) The totalizator or other mechanical equipment shall be available for testing under the supervision of the commission upon request by the commission to ensure its proper working order.

Section 3. Wagering on Historical Horse Races Authorized.

(1) Wagering on historical horse races is hereby authorized and may be conducted in accordance with KRS Chapter 230 and KAR Title 810.

(2) Wagering on historical horse races shall only be conducted by:

(a) An association licensed to conduct a live horse race meet; or

(b) Two (2) or more associations licensed to conduct a live horse race meet:

1. Who form a joint venture; or

2. Pursuant to an agreement between them.

(3) Wagering on historical horse races shall only be permitted in a designated area on the licensed premises of an association licensed to conduct a live horse race meeting. Wagering on historical horse races shall not be offered in any other location.

(4) An association may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets conducted by the association. An association may conduct wagering on historical horse races on any days and hours approved by the commission, and shall not be limited to times during which the association is conducting a live horse race meeting.

(5) Any wager placed on a historical horse race or races is an exotic wager.

(6) Before offering wagering on historical horse races, an association shall first obtain the commission's written approval of all wagers offered as set forth in KAR Title 810.

(7) All wagering on historical horse races shall incorporate the following elements:

(a) A patron may only wager on historical horse races on a terminal approved by the commission;

(b) An association shall at all times maintain at least two (2) terminals offering each type of exotic wager on historical horse races;

(c) Once a patron deposits an amount in the terminal offering wagering on historical horse races, one or more historical horse races shall be made available for wagering;

(d) Prior to the patron making his or her wager selections, the terminal shall not display any information that would allow the patron to identify the historical horse race or races on which he or she is wagering, including the location of the race or races, the date on which the race or races was run, the names of the horses in the race or races, or the names of the jockeys that rode the horses in the race or races;

(e) The terminal shall make available true and accurate past performance information on the historical horse race to the patron prior to making his or her wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form; and

(f) After a patron finalizes his or her wager selections, the terminal shall display the patron's selections, the official results of each race, and a replay of the race or races, or a portion thereof, whether by digital or animated depiction or by way of a video recording. The identity of each race shall be revealed to the patron after the patron has placed his or her wager.

Section 4. Payouts through Pari-Mutuel Pools Authorized.

(1)(a) A wager on a historical horse race or races, less deductions permitted by KRS Chapter 230 or KAR Title 810, shall be placed in pari-mutuel pools approved by the commission.

(b) A payout to a winning patron shall be paid from money wagered by patrons and shall not constitute a wager against the association.

(c) An association conducting wagering on historical horse races shall not conduct wagering in such a manner that patrons are wagering against the association, or in such a manner that the amount retained by the association as a commission is dependent upon the outcome of any particular race or the success of any particular wager.

(2) An association offering wagering on historical horse races shall operate a pari-mutuel pool or pools in a manner and method approved by the commission. An association offering wagering on historical horse races may operate a player-funded pool or pools in a manner and method approved by the commission for the purpose of ensuring that sufficient funds are at all times available to pay any winning wagers in situations where a pari-mutuel pool becomes a minus pool as defined by 810 KAR 6:001. For each wager made, an association may assign a percentage of the wager to a player-funded pool or pools.

(3) If an association chooses to make a deposit into a trust account for the purpose of ensuring that sufficient funds are at all times available to pay any winning wagers in situations where a pari-mutuel pool becomes a minus pool, then such trust account must be approved by the commission.

Section 5. Location of Terminals Used for Wagering on Historical Horse Races.

(1) Terminals offering wagering on historical horse races shall be located within designated areas which have the prior written approval of the commission. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers.

(2) Each association shall monitor persons entering and leaving the designated areas and shall prevent access to any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers on historical horse races.

(3) Each association shall provide terminals that are accessible to handicapped patrons.

Section 6. Records to be Maintained.

(1) Each association and each simulcast facility authorized under KRS 230.380 shall maintain complete records of all pari-mutuel wagering transactions on live and historical horse races, including the amounts wagered at each betting window, self-service totalizator, mobile pari-mutuel teller, and terminal.

(2) A copy of the wagering records shall be retained and safeguarded for a period of not less than two (2) years and shall not be destroyed without the prior written permission of the commission.

Section 7. Equipment.

(1) The association and the totalizator provider shall install a primary and secondary device, which activate the stop betting function of the totalizator system. The chief state steward, presiding judge, or his or her designee, shall use the primary device to stop wagering at the start of a live horse race. If wagering is not stopped by the primary device at the start of the race, the totalizator operator shall stop wagering using the secondary device. The secondary device shall be installed in the totalizator room and shall only be used by the totalizator operator.

(2) If there is a complete breakdown of the totalizator or mechanical equipment during the wagering on a live horse race, the wagering on that race shall be declared closed. If the totalizator remains capable of computing payouts, the payouts for that race shall be computed based on the amounts wagered prior to the breakdown. If the totalizator is incapable of computing payouts, then refunds shall be issued for all amounts wagered on that race.

(3) If there is a complete breakdown of a terminal offering wagering on historical horse, the association offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown.

Section 8. Entries in a Live Horse Race.

(1) The chief state steward or presiding judge shall timely advise an association's pari-mutuel manager, prior to the beginning of wagering on each live horse race, of the horses that will compete in the race.

(2) If two (2) or more horses entered for the same live horse race are determined by the commission to have common ties through ownership or training, they may be joined by the commission as a mutuel entry. The mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. If the number of horses competing in a live horse race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator, together with horses of higher numbers, shall be grouped in the mutuel field as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

(3) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race that has been scratched or withdrawn before the horse has become a starter, unless the horse is part of a mutuel entry, and one (1) or more of the entry starts.

Section 9. Sale of Pari-Mutuel Tickets on Live Horse Races.

(1) The following types of pari-mutuel wagering shall be permitted on a live horse race at all licensed associations and simulcast facilities:

- (a) Normal win, place, and show wagers on each race;
- (b) Any exotic wager previously approved by the commission; and
- (c) Any new exotic wager approved in writing by the commission pursuant to KAR Title 810.

(2) Pari-mutuel tickets on live horse races shall not be sold except by a licensed association or a simulcast facility authorized by KRS 230.380.

(3) Pari-mutuel tickets on a live horse race shall only be sold at regular ticket windows, self-service totalizator machines, by mobile pari-mutuel tellers with hand-held totalizator devices, or by any other method approved in writing by the commission prior to being offered to the public. At least one (1) regular ticket window shall be made accessible to handicapped patrons.

(4)(a) Pari-mutuel stored value cards or cash vouchers may be offered by an association. The dollar amount on the stored value card or cash voucher may be redeemed at any time at any regular ticket window, or used to fund additional wagers.

(b) Cash vouchers shall be valid for one (1) year after the date of issuance. Failure to present any cash voucher for redemption within one (1) year of issuance shall constitute a waiver of the right to receive payment on the voucher.

(5) A pari-mutuel wager shall not be made on a race after the totalizator has been locked for that race.

(6) Any claim by a patron that he or she has been issued a pari-mutuel ticket other than that which was requested shall be made before the patron has left the ticket window or before the mobile teller has initiated a transaction with another patron. A claim for an incorrect ticket shall not be honored after the totalizator has been locked.

Section 10. Payment on Pari-Mutuel Tickets on Live Horse Races.

(1) At the end of each live horse race, the placing judges shall advise the manager of the pari-mutuel department by the use of the totalizator equipment or by telephone of the official placement of the horses, and payouts shall not be made until the receipt of the notice.

(2) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as declared "official" by the stewards or judges. A subsequent change in the order of finish or award of purse money that may result from a subsequent ruling by the stewards, judges, or commission shall not affect the pari-mutuel payout.

(3) Each association shall deduct from each pari-mutuel pool a commission, not exceeding the commission provided by KRS 230.3615 or KRS 230.750. The remainder of the pari-mutuel pool after the deduction of the commission shall be the net pool for distribution as payouts to ticket holders.

(4) Payment on valid pari-mutuel tickets shall be made only if presented and surrendered within one (1) year following the running of the live horse race on which the wager was made. Failure to present a ticket within one (1) year shall constitute a waiver of the right to receive payment on the ticket.

(5) The association shall be responsible for the correctness of all payout prices posted as "official." If an error is made in posting the payout figures, and ascertained before any tickets are cashed, the posting error shall be corrected, accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error.

(6) A mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall not be accepted for payment.

(7) An association shall establish a written procedure for granting patrons an opportunity to file a claim on a lost pari-mutuel ticket and provide a copy to the commission.

(8) Prior to posting payouts, the association's pari-mutuel manager shall require the verification of the winning runners and prices prior to posting official results.

(9)(a) If an error is made in calculating the payout on a winning wager, resulting in overpayment, the association shall be responsible for the amount between the correct payout and the amount paid.

(b) If the error in calculation results in a payout being too low, the amount between the correct payout and the amount paid shall be added to the net pool of the same position in the following race on the same day or, if it is the last race of the day, then it shall be added to the net pool of the same position in the same race on the following day. If an error occurs in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day.

(c) If an error occurs causing underpayment on the last race of the entire racing meeting, the amount of the underpayment shall be paid to the Kentucky Revenue Cabinet.

Section 11. Minimum Wagers and Payouts.

(1) The minimum wager to be accepted by any licensed association on a live horse race shall be ten (10) cents. The minimum payout on a one (1) dollar wager on a live horse race shall be one (1) dollars and ten (10) cents, unless a minus pool occurs. If a minus pool occurs, the minimum payout for a one (1) dollar wager shall be one (1) dollar and five (5) cents.

(2) The minimum wager to be accepted by an association on an exotic wager based on the outcome of a historical horse race or races shall be ten (10) cents. The minimum payout on any wager shall not be less than the amount wagered.

Section 12. Minors Prohibited from Wagering. A minor shall not be permitted by any licensed association or simulcast facility to purchase or cash a pari-mutuel ticket.

Section 13. Odds and payouts posted.

(1) Approximate odds for live horse races, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public at intervals of not more than ninety (90) seconds.

(2) If daily double wagering is conducted on a live horse race, before off-time of the second daily double race, the probable payout for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race shall be posted; except that if a dead heat for first in the first daily double race occurs, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payouts shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public by posting or public address announcement as soon as possible and prior to the running of the second daily double race.

(3) For wagering on historical horse races, approximate odds or payouts for each pari-mutuel pool shall be posted or made available on each terminal for viewing by patrons.

Section 14. Betting Explanation.

(1) Each association shall publish in the daily race program, for each day of live horse racing, a general explanation of pari-mutuel wagering offered on live horse races and an explanation of each type of pari-mutuel pool offered. The explanation also shall be posted in conspicuous places about the association grounds to adequately inform the public and shall be submitted to the commission prior to publication for approval.

(2) Each association shall post, in conspicuous places in the designated area, a general explanation of pari-mutuel wagering offered on historical horse races and an explanation of each pari-mutuel pool offered. The explanation shall be submitted to the commission for approval prior to its posting.

Section 15. Prior Approval Required for Number of Live Horse Races. Each association desiring to conduct more than nine (9) live horse races on a single day shall first apply in writing to the commission and obtain specific approval of the number of live horse races to be offered on a single day.

Section 16. Pari-mutuel Pools Dependent upon Entries for Live Horse Races.

(1) If horses representing five (5) or fewer betting interests qualify to start in a live horse race, the association may prohibit show wagering on that race. If horses representing four (4) or fewer betting interests qualify to start in a live horse race, the association may prohibit both place and show wagering on that race.

(2) If a horse is scratched by the stewards or judges after wagering has commenced, or if a horse is prevented from running in a live horse race because of failure of a starting-gate door to open properly, and the number of actual starters representing different betting interests is:

(a) Reduced to five (5), the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets; or

(b) Reduced to four (4) or fewer, the association may cancel both place and show wagering on that race and the entire place and show pool shall be refunded upon presentation and surrender of place and show tickets.

Section 17. Emergency Situation. If any emergency arises in connection with the operation of the pari-mutuel department not provided for by this administrative regulation, the pari-mutuel manager shall take immediate corrective action and shall by the quickest means possible notify the chief state steward or presiding judge and render a full report to the commission.

Section 18. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

JONATHAN RABINOWITZ, Chair

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 15, 2021

FILED WITH LRC: February 25, 2021 at 3:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. on May 24, 2021 at Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511 via Zoom. 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 p.m. 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, 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 establishes the regulatory framework that applies to all pari-mutuel wagering on live and historical horse races in the Commonwealth. It authorizes pari-mutuel wagering on historical horse races and requires the use of pari-mutuel pools for such wagers. It establishes where, and under what circumstances, pari-mutuel wagering on live and historical horse races may take place. It places requirements on how winning pari-mutuel wagers shall be paid. It requires associations to maintain records regarding all pari-mutuel wagering at their facilities and to make them available to the commission on request. It establishes guidelines for the equipment used by the association to offer pari-mutuel wagering and provides requirements for the sale of pari-mutuel tickets. It establishes minimum wager amounts and payouts for pari-mutuel wagers on live and historical horse races.

(b) The necessity of this administrative regulation: This regulation is necessary for the commission to regulate the integrity of pari-mutuel wagering in the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) authorizes the commission to regulate the conditions under which racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating pari-mutuel wagering on horse races. This regulation establishes the regulatory framework that applies to all pari-mutuel wagering on live and historical horse races in the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 230.215(2) authorizes the commission to regulate the conditions under which racing and pari-mutuel wagering thereon shall be conducted in the Commonwealth. This regulation provides the specific rules for pari-mutuel wagering on live and historical horse races in the Commonwealth.

(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 regulation is not an amendment. It is a new regulation.

(b) The necessity of the amendment to this administrative regulation: This regulation is not an amendment. It is a new regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation is not an amendment. It is a new regulation.

(d) How the amendment will assist in the effective administration of the statutes: This regulation is not an amendment. It is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the eight currently-licensed racing associations in the Commonwealth, any applicant for a racing association license, the owners and trainers who participate in racing in the Commonwealth, the jockeys who ride in the Commonwealth, the harness drivers who drive in the

Commonwealth, the patrons who place pari-mutuel wagers on live and historical horse races in the Commonwealth, and the commission.

(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: The licensed racing associations will be required to follow the procedure outlined in the regulation to offer pari-mutuel wagering. This regulation will not require the regulated entities to take any additional compliance measures that they are not already taking.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This new regulation is not anticipated to increase compliance costs significantly for any regulated entity and will not increase compliance costs for the commission.

(c) As a result of compliance, what benefits will accrue to the entities: The associations will be able to offer pari-mutuel wagering options to patrons. Pari-mutuel wagering will increase on-track attendance and total pari-mutuel handle. The increase revenue can be used to maintain and improve racing association facilities and supplement purses for live races run at each association. The increased purses will help the associations to compete with racing associations in neighboring states that offer expanded gaming options. The owners, trainers, jockeys and harness drivers will benefit from increased purses, as well as any improvements to an association's facilities. The patrons will benefit from any improvements to an association's facilities, as well as from increased pari-mutuel wagering options.

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

(a) Initially: This new regulation is not anticipated to increase compliance costs significantly for any regulated entity and will not increase compliance costs for the commission. The racing associations will continue to experience costs due to employee compensation and expenses, as well as equipment maintenance. The commission will be reimbursed by the associations for additional employee compensation and other expenses pursuant to KRS 230.240.

(b) On a continuing basis: This new regulation is not anticipated to increase compliance costs significantly for any regulated entity and will not increase compliance costs for the commission. The racing associations will continue to experience costs due to employee compensation and expenses, as well as equipment maintenance. The commission will be reimbursed by the associations for additional employee compensation and other expenses pursuant to KRS 230.240.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This new regulation is not anticipated to increase compliance costs significantly for any regulated entity and will not increase compliance costs for the commission. As a general rule, the commission is reimbursed by the association for additional employee compensation and other expenses pursuant to KRS 230.240.

(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 new regulation is not anticipated to increase compliance costs significantly for any regulated entity and will not increase compliance costs for the commission.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This new regulation is not anticipated to increase compliance costs significantly for any regulated entity and will not increase compliance costs for the commission. However, as in previous version of this regulation, the associations that request and receive permission to offer pari-mutuel wagering on historical horse races will be required to reimburse

the commission for the cost of compensation of additional employees and expenses pursuant to KRS 230.240.

(9) TIERING: Is tiering applied? Tiering is not applied. All aspects of this regulation will be applied equally to each association.

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 Department of Revenue.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.210, KRS 230.215, 230.361, and 230.370.

(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 new regulation is not anticipated to increase revenue any more than the current regulatory scheme does. Instead, this new regulation will preserve tax revenue by allowing associations to continue offering pari-mutuel wagering. As is the case under the current regulatory scheme, the amount of tax revenue will be dependent on the number of terminals the associations install and operate.

(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 new regulation is not anticipated to increase revenue any more than the current regulatory scheme does. Instead, this new regulation will preserve tax revenue by allowing associations to continue offering pari-mutuel wagering. As is the case under the current regulatory scheme, the amount of tax revenue will be dependent on the number of terminals the associations install and operate.

(c) How much will it cost to administer this program for the first year? This new regulation is not anticipated to increase revenue any more than the current regulatory scheme does. As is the case under the current regulatory scheme, the costs largely come from employee compensation and expenses, as well as equipment maintenance. The commission is reimbursed for these costs by the associations.

(d) How much will it cost to administer this program for subsequent years? This new regulation is not anticipated to increase revenue any more than the current regulatory scheme does. As is the case under the current regulatory scheme, the costs largely come from employee compensation and expenses, as well as equipment maintenance. The commission is reimbursed for these costs by the associations.

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: N/A