

810 KAR 7:070. Violations, discipline, disputes, and investigation.

RELATES TO: KRS 13B, 230.215, 230.225(5)(c), 230.320, 230.330, 230.400, 230.445, 230.770, 230.800, 230.802, 230.804.

STATUTORY AUTHORITY: KRS 230.370, 230.400, 230.445, 230.770(6) and (7), 230.802(1) and (2)(b), 230.804(2)(b).

NECESSITY, FUNCTION AND CONFORMITY: KRS 230.400 establishes the Kentucky Thoroughbred Development Fund and requires the Kentucky Horse Racing Commission to promulgate administrative regulations as may be necessary to carry out its provisions and purposes. KRS 230.800(2)(b) requires the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the Kentucky Thoroughbred Breeders' Incentive Fund. KRS 230.770(6) and (7) authorize the commission to promulgate administrative regulations establishing the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund and the conditions, class, and quality of the races. KRS 230.802(1) establishes the Kentucky standardbred breeders' incentive fund. KRS 230.802(2)(b) authorizes the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. KRS 230.804(2)(b) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the Kentucky Horse Breeders' Incentive Fund. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. KRS 230.370 authorizes the commission to promulgate any reasonable and necessary administrative regulation for the conduct of hearings before it. This administrative regulation establishes a uniform process for enforcing the standards for distribution of money from these funds and for resolving disputes related to them.

Section 1. Violations.

(1) It shall be a violation of this administrative regulation if an applicant or registrant under 810 KAR 7:020 to 7:060, or a person otherwise eligible for or claiming entitlement to an award from a fund administered under 810 KAR 7:020 to 7:060:

(a) Provides any official registrar under KRS 230.400, any advisory committee, or the commission with incorrect, false, or misleading information;

(b) Fails to furnish information requested by the official registrar, advisory committee, or commission within thirty (30) days;

(c) Is charged or convicted of a crime, offense, or other criminal or civil violation involving cruelty, mistreatment, abuse, or neglect of a horse;

(d) Engages in conduct that is against the best interests of horse breeding or horse racing;

or

(e) Violates any provision of KRS Chapter 230 or KAR Title 810 in any other manner.

(2) For any violation of this administrative regulation, the commission may:

(a) Deny an application;

(b) Suspend, deny, or revoke a registration; or

(c) Deny or revoke an award.

(3) In addition to the penalties in subsection 2, for a violation of this administrative regulation, the commission may bar a person from participation in any incentive or development fund

under 810 KAR Chapter 7 for a period of one (1) to five (5) years based on the seriousness of the violation. For a second or subsequent violation of this administrative regulation, the commission may impose a lifetime bar from participation in any fund administered under 810 KAR Chapter 7.

(4) A person charged, but not convicted of a crime, offense, or other criminal or civil violation as provided in subsection (1)(c) may petition the commission for reinstatement. The commission shall reinstate the earnings, registration, or application upon submission of proof satisfactory to the commission that the charges were dismissed and the facts forming the basis of the charges were false.

Section 2. Disciplinary Process.

(1) The commission shall investigate suspected violations of this administrative regulation.

(2) Upon the completion of the investigation, the person or persons conducting the investigation shall submit a written report to the executive director containing a statement of the facts disclosed by the investigation.

(3) Based on consideration of the investigative report, the executive director shall determine whether there is prima facie cause to believe that a violation has been committed.

(4) Upon determination that prima facie cause exists, the executive director shall issue written notice of disciplinary action. The notice shall set forth:

(a) The statutory or regulatory violation;

(b) The factual basis on which the disciplinary action is based;

(c) The penalty imposed; and

(d) A statement that the notice may be appealed to an administrative hearing by written notice sent to the commission within twenty (20) calendar days of issuance of the notice.

(5) Notice of a disciplinary action under this section may be appealed to an administrative hearing. A written request for an administrative hearing shall be filed with the commission within twenty (20) calendar days of the date of the executive director's notice. The request shall identify the specific issues in dispute and the legal basis on which the executive director's decision on each issue is believed to be erroneous.

(6) An administrative hearing under this section shall be conducted under KRS Chapter 13B.

(7) If the request for an administrative hearing is not timely filed, the penalty laid out in the notice of disciplinary action shall be effective upon the expiration of the time to request an administrative hearing.

Section 3. Disputes.

(1) Any non-disciplinary dispute between the commission and an applicant or registrant under 810 KAR 7:020 to 7:060, or a person otherwise eligible for or claiming entitlement to an award from a fund administered under 810 KAR 7:020 to 7:060, shall be raised by the aggrieved party by filing a petition seeking relief with the executive director of the commission within thirty (30) days of the action or the inaction leading to the dispute.

(2) If the executive director and the aggrieved party do not agree on a resolution of the dispute, the executive director shall refer the matter for an administrative hearing under KRS Chapter 13B.

Section 4. Consent to Investigate; Additional Information. Application or registration under 810 KAR 7:020 to 7:060, or submission of any claim for an award from a fund administered under 810 KAR 7:020 to 7:060, shall constitute consent to:

(1) Investigation by the commission or any advisory committee of all information provided to

the commission or any advisory committee;

(2) Site visits to verify all mare and stallion residency requirements set forth in 810 KAR Chapter 7; and

(3) Provide any additional information requested by the commission or any advisory committee. (45 Ky.R. 1992; 3164; eff. 5-31-2019.)