

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

810 KAR 8:030. Disciplinary measures and penalties.

RELATES TO: KRS 230.215, 230.260, 230.265, 230.290, 230.300, 230.310, 230.320, 230.361

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(2), 230.260(8), 230.265, 230.320

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations under which racing shall be conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations 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. This administrative regulation establishes the penalty structure for rule violations and also establishes disciplinary powers and duties of the stewards, judges, and the commission.

Section 1. Definitions.

(1) "Associated person" means the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that the other person or entity would care for or train a horse or perform veterinarian services on a horse for the benefit, credit, reputation, or satisfaction of the inactive person.

(2) "Class A drug" means a drug, medication, or substance classified as a Class A drug, medication, or substance in the schedule.

(3) "Class B drug" means a drug, medication, or substance classified as a Class B drug, medication, or substance in the schedule.

(4) "Class C drug" means a drug, medication, or substance classified as a Class C drug, medication, or substance in the schedule.

(5) "Class D drug" means a drug, medication, or substance classified as a Class D drug, medication, or substance in the schedule.

(6) "Companion" means a person who cohabits with or shares living accommodations with an inactive person.

(7) "Inactive person" means a trainer or veterinarian who has his or her license denied or suspended or revoked for thirty (30) or more days pursuant to KAR Title 810 or KRS Chapter 230.

(8) "NSAID" means a nonsteroidal anti-inflammatory drug.

(9) "Schedule" means the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 8:020.

(10) "Withdrawal guidelines" means the Kentucky Horse Racing Commission Withdrawal Guidelines established in 810 KAR 8:025~~[810 KAR 8:020]~~.

Section 2. General Provisions.

(1) An alleged violation of the provisions of KRS Chapter 230 or KAR Title 810 shall be adjudicated in accordance with this administrative regulation, 810 KAR 9:010, and KRS Chapters 230 and 13B.

(2) If a drug, medication, or substance that is not classified in the schedule is found to be present in a pre-race or post-race sample or possessed or used by a licensee at a location under the jurisdiction of the commission, the commission may establish a classification after con-

sultation with either or both of the Association of Racing Commissioners International and the Racing and Medication Testing Consortium or their respective successors.

(3) The stewards, judges, and the commission shall consider any mitigating or aggravating circumstances properly presented when assessing penalties pursuant to this administrative regulation. Evidence of full compliance with the withdrawal guidelines shall be considered by the stewards, judges, and the commission as a mitigating factor to be used in determining violations and penalties.

(4) A licensee whose license has been suspended or revoked in any racing jurisdiction or a horse that has been deemed ineligible to race in any racing jurisdiction shall be denied access to locations under the jurisdiction of the commission during the term of the suspension or revocation.

(5) A suspension or revocation shall be calculated in calendar days, unless otherwise specified by the stewards, judges, or the commission in a ruling or order.

(6) Notice of the assessment of a penalty, including a written warning, shall be made to the person penalized. The notice and terms of the penalty shall be posted immediately on the official Web site of the commission and sent to the United States Trotting Association, the Association of Racing Commissioners International, or their successors, as applicable, to be posted on their respective official Web sites. If an appeal is pending, that fact shall be so noted.

(7) A horse administered a substance in violation of 810 KAR 8:010 may be required to pass a commission-approved examination as determined by the stewards or judges pursuant to 810 KAR 4:010, Section 10 or 810 KAR 5:010, Section 4, or be placed on the veterinarian's list pursuant to 810 KAR 8:010, Section 19[48].

(8) To protect the racing public and ensure the integrity of racing in Kentucky, a trainer whose penalty for a Class A violation or for a Class B third offense violation has not been finally adjudicated may, if stall space is available, be required to house a horse that the trainer has entered in a race in a designated stall for the twenty-four (24) hour period prior to post time of the race in which the horse is entered. If the stewards or judges require the trainer's horse to be kept in a designated stall, there shall be twenty-four (24) hour surveillance of the horse by the association, and the cost shall be borne by the trainer.

(9) In addition to the penalties contained in Section 4 of this administrative regulation for the trainer and owner, any other person who administers, is a party to, facilitates, or is found to be responsible for any violation of 810 KAR 8:010 shall be subject to the relevant penalty as provided for the trainer or other penalty as may be appropriate based upon the violation.

(10) A veterinarian who administers, is a party to, facilitates, or is found to be responsible for any violation of KRS Chapter 230 or KAR Title 810 shall be reported to the Kentucky Board of Veterinary Examiners and the state licensing Board of Veterinary Medicine by the stewards or judges.

(11) In accordance with KRS 230.320(6), an administrative action or the imposition of penalties pursuant to this administrative regulation shall not constitute a bar or be considered jeopardy to prosecution of an act that violates the criminal statutes of Kentucky.

(12) If a person is charged with committing multiple or successive overages involving a Class C or Class D drug, medication, or substance, the stewards, judges, or the commission may charge the person with only one (1) offense if the person demonstrates that he or she was not aware that overages were being administered because the positive test results showing the overages were unavailable to the person charged. In this case, the person alleging that he or she was not aware of the overages shall bear the burden of proving that fact to the stewards, judges, or the commission.

(13) If a penalty for a medication violation requires a horse to be placed on the stewards' list or the judges' list for a period of time, the stewards or judges may waive this requirement if

ownership of the horse was legitimately transferred prior to the trainer's notification by the commission of the positive result.

(14) In standardbred racing only, if the penalty is for a driving violation and does not exceed in time a period of five (5) days, the driver may complete the engagement of all horses declared in before the penalty becomes effective. The driver may drive in stake, futurity, early closing and feature races, during a suspension of five (5) days or less, but the suspension shall be extended one (1) day for each date the driver drives in a race.

(15) A horse shall not be permitted to race while owned or controlled wholly or in part by a person whose license has been suspended or revoked.

(16) An association under the jurisdiction of the commission shall not willfully allow:

(a) A person whose license has been suspended or revoked in any jurisdiction to participate in racing;

(b) A horse suspended in any jurisdiction to start in a race or a performance against time; or

(c) The use of its track or grounds by a licensee whose license has been suspended or revoked and has been denied access to the grounds by the stewards or judges in any jurisdiction.

(17) If a person is ejected or excluded from a location under the jurisdiction of the commission, the stewards, judges, and commission director of security shall be notified in writing.

(18) A licensee that has been suspended shall serve any suspension imposed:

(a) During the current race meet, if there are enough remaining days to serve out the suspension;

(b) During the next regularly scheduled race meet at the operating race track where the infraction took place if there are not enough remaining days to serve out the suspension; or

(c) At the discretion of the stewards or judges, during a race meet at another operating track in any jurisdiction where the licensee seeks to engage in the activity for which he or she is licensed if the track where the infraction took place closes before another race meet is held at that track.

(19) A penalty imposed by the governing body of any racing jurisdiction or the USTA States Trotting Association shall be recognized and reciprocally enforced by the commission unless application is made for a hearing before the stewards or judges, during which the applicant shall show cause as to why the penalty should not be enforced against him in Kentucky. The hearing shall be limited to the following issues:

(a) Whether the applicant is the same person who is subject to the penalty imposed;

(b) Whether the USTA or other racing jurisdiction in fact suspended the applicant; and

(c) Determination of the time period of the suspension as imposed by the USTA or other racing jurisdiction.

Section 3. Prior Offenses. A prior offense occurring in Kentucky or any other racing jurisdiction shall be considered by the stewards, judges, and the commission in assessing penalties. The stewards or judges shall attach to a penalty judgment a copy of the offender's prior record listing violations that were committed both inside and outside of Kentucky.

Section 4. Penalties for Class A, B, C, and D Drug Violations and NSAID and Furosemide Violations.

(1) Class A drugs. The penalties established in paragraphs (a) and (b) of this subsection shall apply to a Class A drug violation.

(a) Trainer

First offense	Second lifetime offense in any racing	Third lifetime offense in any racing
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	jurisdiction	ing jurisdiction
<p>One (1) to three (3) year suspension, absent mitigating circumstances;</p> <p>AND</p> <p>\$10,000 to \$25,000 fine, absent mitigating circumstances.</p>	<p>Three (3) to five (5) year suspension, absent mitigating circumstances;</p> <p>AND</p> <p>\$25,000 to \$50,000 fine, absent mitigating circumstances.</p>	<p>Five (5) year suspension to a lifetime ban, absent mitigating circumstances;</p> <p>AND</p> <p>\$50,000 to \$100,000 fine, absent mitigating circumstances.</p>

(b) Owner

First offense	Second lifetime offense in any racing jurisdiction in a horse owned by the same owner	Third lifetime offense in any racing jurisdiction in a horse owned by the same owner
<p>Disqualification and loss of purse;</p> <p>AND</p> <p>Horse shall be placed on the stewards' list or judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>	<p>Disqualification and loss of purse;</p> <p>AND</p> <p>Horse shall be placed on the stewards' list or judges' list for 120 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>	<p>Disqualification and loss of purse;</p> <p>AND</p> <p>Ninety (90) day suspension, absent mitigating circumstances;</p> <p>AND</p> <p>\$50,000 fine, absent mitigating circumstances;</p> <p>AND</p> <p>Horse shall be placed on the stewards' list or judges' list for 180 days and may be required to pass a commission-approved exami-</p>

		nation before being eligible to enter as determined by the stewards or judges.
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(2)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Class B drugs;
 2. Gamma amino butyric acid in a concentration greater than 110 nanograms per milliliter;
- and
3. Cobalt in a concentration greater than fifty (50) parts per billion.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Thirty (30) to sixty (60) day suspension, absent mitigating circumstances; AND \$500 to \$1,000 fine, absent mitigating circumstances.	Sixty (60) to 180 day suspension, absent mitigating circumstances; AND \$1,000 to \$2,500 fine, absent mitigating circumstances.	180 to 365 day suspension, absent mitigating circumstances; AND \$2,500 to \$5,000 fine, absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner	Third offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner
Disqualification and loss of purse; Horse may be	Disqualification and loss of purse; AND Horse may be	Disqualification and loss of purse; AND Horse shall be

<p>required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges;</p> <p>AND</p> <p>For a cobalt violation, the horse shall be placed on the stewards' list or judges' list until the horse tests below twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.</p>	<p>required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>	<p>placed on the stewards' list or judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>
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(3)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to a Class C drug violation and an overage of permitted NSAIDs as follows:

1. Phenylbutazone in a concentration greater than three-tenths (0.3) micrograms per milliliter;
2. Flunixin in a concentration greater than five (5) nanograms per milliliter; and
3. Ketoprofen in a concentration greater than two (2) nanograms per milliliter.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Zero to ten (10) day suspension absent mitigating circumstances; <p>AND</p>	Ten (10) to thirty (30) day suspension absent mitigating circumstances; <p>AND</p>	Thirty (30) to sixty (60) day suspension absent mitigating circumstances; <p>AND</p>

\$500 to \$1,500 fine absent mitigating circumstances.	\$1,500 to \$2,500 fine absent mitigating circumstances.	\$2,500 to \$5,000 fine absent mitigating circumstances.
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(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
<p>Disqualification and loss of purse;</p> <p>AND</p> <p>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>	<p>Disqualification and loss of purse;</p> <p>AND</p> <p>If same horse as first offense, horse shall be placed on the stewards' list or judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>	<p>Disqualification and loss of purse;</p> <p>\$5,000 fine, absent mitigating circumstances;</p> <p>AND</p> <p>If same horse as first and second offenses, horse shall be placed on the stewards' list or judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.</p>

(4)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Overage of furosemide in a concentration greater than one (1) nanogram per milliliter [~~for horses that are not permitted by 810 KAR 8:001 to receive furosemide within twenty-four (24) hours of the post time of a race in which the horse is entered~~];
2. Overage of furosemide in a concentration greater than 100 nanograms per milliliter for horses other than those identified in subparagraph 1. of this paragraph;

- 3. Furosemide not identified when notice made that the horse would run on furosemide; and
- 4. Cobalt in a concentration greater than twenty-five (25) parts per billion through fifty (50) parts per billion.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Written warning to a \$500 fine, absent mitigating circumstances.	Written warning to a \$750 fine, absent mitigating circumstances.	\$500 to \$1,000 fine, absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges; AND For a cobalt violation, the horse shall be placed on the stewards' list or judges' list until the horse tests below	Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	If same horse as first and second offenses, disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.		
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(d) If a furosemide violation occurs due solely to the actions or inactions of the commission veterinarian, then the trainer and owner shall not be penalized.

(5) Multiple NSAIDs. The penalties established in paragraphs (a) and (b) of this subsection shall apply to an overage of two (2) permitted NSAIDs: phenylbutazone, flunixin, and ketoprofen.

(a) Trainer

	Concentrations of both permitted NSAIDs above the NSAID threshold.
First offense	Zero to sixty (60) day suspension, absent mitigating circumstances; AND \$500 to \$1,000 fine, absent mitigating circumstances.
Second offense within a 365-day period in any racing jurisdiction	Sixty (60) to 180 day suspension, absent mitigating circumstances; AND \$1,000 to \$2,500 fine, absent mitigating circumstances.
Third offense within a 365-day period in any racing jurisdiction	180 to 365 day suspension, absent mitigating circumstances; AND \$2,500 to \$5,000 fine, absent mitigating circumstances.

(b) Owner

	Concentrations of both permitted NSAIDs above the NSAID threshold.
First offense	Disqualification and loss of purse.
Second offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.
Third offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.

(6) Class D drugs.

(a) The penalties established in paragraph (b) of this subsection shall apply to a Class D drug violation.

(b) Trainer

One (1) to four (4) offenses within a 365-day period in any racing jurisdiction	Five (5) or more offenses within a 365-day period in any racing jurisdiction
Zero to five (5) day suspension, absent mitigating circumstances;	Five (5) to ten (10) day suspension, absent mitigating circumstances;
AND	AND
\$250 to \$500 fine, absent mitigating circumstances.	\$500 to \$1,000 fine, absent mitigating circumstances.

Section 5. TCO2 Penalties. The penalties established in subsections (1) and (2) of this section shall apply to a violation of 810 KAR 8:010, Section 21(6), (7), or (8) [~~20(6), (7), or (8)~~].

(1) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction
Zero to ninety (90) day suspension, absent mitigating circumstances;	Ninety (90) to 180 day suspension, absent mitigating circumstances;	180 to 365 day suspension, absent mitigating circumstances;	One (1) year suspension to lifetime ban, absent mitigating circumstances.
AND	AND	AND	
\$1,000 to \$1,500 fine, absent mitigating circumstances.	\$1,500 to \$3,000 fine, absent mitigating circumstances.	\$3,000 to \$5,000 fine, absent mitigating circumstances.	

(2) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction

Disqualification and loss of purse.	Disqualification and loss of purse; AND If same horse as first offense, horse shall be placed on the stewards' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Disqualification and loss of purse; AND If same horse as first and second offenses, horse shall be placed on the stewards' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	Disqualification and loss of purse; AND If same horse as first, second, and third offenses, horse shall be placed on the stewards' list from 180 to 365 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.
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Section 6. Shock Wave Machine and Blood Gas Machine Penalties. The penalties established in subsections (1) and (2) of this section shall apply to a violation of 810 KAR 8:010, Section 21(5), (9), or (10) [~~Section 20(5), (9), or (10)~~].

(1) Trainer

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
Thirty (30) to sixty (60) day suspension absent mitigating circumstances; AND \$1,000 to \$5,000 fine absent mitigating circumstances.	Sixty (60) to 180 day suspension absent mitigating circumstances; AND \$5,000 to \$10,000 fine absent mitigating circumstances.	180 to 365 day suspension absent mitigating circumstances; AND \$10,000 to \$20,000 fine absent mitigating circumstances.

(2) Owner

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse; AND If same horse as first offense, horse shall be placed on the stewards' list or judges' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND If same horse as first and second offenses, horse shall be placed on the stewards' list or judges' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

Section 7. Persons with a Suspended or Revoked License.

(1) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive person. The partners in a veterinary practice may provide services to horses if the inactive person does not receive a pecuniary benefit from those services.

(2) An associated person of an inactive person shall not:

(a) Assume the inactive person's responsibilities at a location under the jurisdiction of the commission;

(b) Complete an entry form for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked; or

(c) Pay or advance an entry fee for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked.

(3) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:

(a) Be paid a salary directly or indirectly by or on behalf of the inactive person;

(b) Receive a bonus or any other form of compensation in cash, property, or other remuneration or consideration;

(c) Make a payment or give remuneration or other compensation or consideration to the inactive person or associated person; or

(d) Train or perform veterinary work for the inactive person or an owner or customer of the inactive person at a location under the jurisdiction of the commission.

(4) A person who is responsible for the care, training, or veterinary services provided to a horse formerly under the care, training, or veterinary services of an inactive person shall:

(a) Bill customers directly on his or her bill form for any services rendered at or in connection with any race meeting in Kentucky;

(b) Maintain a personal checking account totally separate from and independent of that of the inactive person to be used to pay expenses of and deposit income from an owner or client of the inactive person;

(c) Not use the services, directly or indirectly, of current employees of the inactive person; and

(d) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for the expenses shall be retained for not less than six (6) months after the date of the reinstatement of the license of the inactive person or the expiration of the suspension of the inactive person's license.

Section 8. Other Disciplinary Measures.

(1) A person who violates 810 KAR 8:010, Section 21(2)~~[20(2)]~~, shall be treated the same as a person who has committed a drug violation of the same class, as determined by the commission after consultation with the Equine Drug Research Council.

(2) A person who violates 810 KAR 8:010, Section 21(3)~~[20(3)]~~, shall be treated the same as a person who has committed a Class A drug violation.

Section 9. Disciplinary Measures by Stewards or Judges. Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 or KAR Title 810, if not otherwise provided for in this administrative regulation, the stewards or judges may impose one (1) or more of the following penalties:

(1) If the violation or attempted violation may affect the health or safety of a horse or race participant, or may affect the outcome of a race, declare a horse or a licensee ineligible to race or disqualify a horse or a licensee in a race;

(2) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years in proportion to the seriousness of the violation and the facts of the case;

(3) Cause a person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the stewards or judges to be inconsistent with maintaining the honesty and integrity of the sport of horse racing to be denied access to association grounds or a portion of association grounds; and

(4) Payment of a fine in an amount not to exceed \$50,000 as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

Section 10. Disciplinary Measures by the Commission.

(1) Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 or KAR Title 810, if not otherwise provided for in this administrative regulation, the commission may impose one (1) or more of the following penalties:

(a) If the violation or attempted violation may affect the health or safety of a horse or race participant or may affect the outcome of a race, declare a horse or a licensed person ineligible to race or disqualify a horse or licensed person in a race;

(b) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years in proportion to the seriousness of the violation;

(c) Cause a person found to have interfered with or contributed toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the commission to be inconsistent with maintaining the honesty and integrity of horse racing, to be denied access to association grounds or a portion of association grounds for a length of time the commission deems necessary;

(d) Payment of a fine of up to \$50,000 as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

(2) Upon appeal of a matter determined by the stewards' or judges the commission may:

(a) Order a hearing de novo of a matter determined by the stewards' or judges; and

(b) Reverse or revise the stewards' or judges' ruling in whole or in part, except as to findings of fact by the stewards' or judges' ruling regarding matters that occurred during or incident to the running of a race and as to the extent of disqualification fixed by the stewards or judges for a foul in a race.

JONATHAN RABINOWITZ, Chair

KERRY HARVEY, Secretary

APPROVED BY AGENCY: March 4, 2021

FILED WITH LRC: March 5, 2021 at 12:43 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 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 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, 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 penalties for violations of the requirements and prohibitions concerning the use of medication at race meetings at licensed racing associations in the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clearly establish requirements and prohibitions concerning the use of medications during race meetings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. This administrative regulation establishes the requirements, prohibitions, and procedures pertaining to the use of medications on racing days during horse race meetings in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that medications are used appropriately on racing days and in a manner that is consistent with the integrity of racing.

(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 amendment originally referred only to 810 KAR 8:020 when it referred to medication classifications, withdrawal guidelines, and threshold levels. Now, the amendment also refers to the newly-created regulation 810 KAR 8:025, which will outline medication withdrawal guidelines and threshold levels. This regulation is also amended to refer to correct section numbers in 810 KAR 8:010.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that the regulation properly refers to 810 KAR 8:025 regarding withdrawal guidelines and threshold levels.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. The amendment to this administrative regulation refers to a new regulation establishing requirements, prohibitions, and procedures pertaining to the use of medications on and leading up to racing days during horse race meetings in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of KRS 230.215(2), 230.260(8), and KRS 230.240(2) by establishing appropriate requirements and prohibitions pertaining to the use of medications in horse racing in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Horse Racing Commission is affected by this administrative regulation. In addition, Kentucky's licensed thoroughbred and standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the use of medication in horse racing. In the year 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: Participants in horse racing, and especially owners, trainers, and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to the use of medication in horse racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No new costs are anticipated to comply with this administrative regulation,

as Kentucky's licensees have operated in accordance with similar requirements for many years.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity of racing.

(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: Kentucky's racing associations are required by KRS 230.240(2) to pay for the cost of testing for prohibited medications. The Kentucky Horse Racing Commission covers other costs of implementing and enforcing 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 additional fees or funding are 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 was not applied because this administrative 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, 230.260, 230.320.

(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 for the first year.

(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 for subsequent years.

(c) How much will it cost to administer this program for the first year? No funds 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 funds 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 (+/-): Neutral

Expenditures (+/-): Neutral
Other Explanation: None