

STATEMENT OF EMERGENCY
811 KAR 1:251E

The Kentucky Horse Racing Commission filed emergency regulation 810 KAR 6:030E to comply with SB 120, which was passed by the legislature on February 11, 2021, as well as the Kentucky Supreme Court's recent decision in *Family Tr. Found. of Kentucky, Inc. v. Kentucky Horse Racing Comm'n*, No. 2018-SC-0630-TG, 2020 WL 5806813 (Ky. Sept. 24, 2020), which required regulatory changes to enable racing associations to continue to offer pari-mutuel wagering on historical horse races. This emergency regulatory amendment is necessary to meet an imminent threat to public health, safety, or welfare; to prevent a loss of state funds; and to prevent a conflict with the provisions of 810 KAR 6:030E. An ordinary regulation is not sufficient because a direct regulatory conflict would be created through the enactment of 810 KAR 6:030E, in the absence of this concurrent emergency regulation. This emergency regulation will not be replaced by an ordinary regulation because it operates to repeal 811 KAR 1:250, the substance of which will now be governed by 810 KAR 6:030E and the concurrently filed ordinary regulation: 810 KAR 6:030.

ANDY BESHEAR, Governor
KERRY HARVEY, Secretary

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Emergency Amendment)

811 KAR 1:251E. Repeal of 811 KAR 1:250.

EFFECTIVE: February 25, 2021

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 pari-mutuel wagering on horse races under the pari-mutuel system of wagering. The administrative regulation establishing the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and KAR Title 810, Chapter 1 is now located at 810 KAR 6:030E, and therefore, 811 KAR 1:250 is no longer needed.

Section 1. 811 KAR 1:250. Exotic wagering, is hereby repealed.

JONATHAN RABINOWITZ, Chair
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 17, 2021

FILED WITH LRC: February 25, 2021 at 1:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM on April 22, 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 can-

celed. 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 April 30, 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 regulation operates to repeal 811 KAR 1:250, the substance of which will now be governed by 810 KAR 6:030E.

(b) The necessity of this administrative regulation: This regulation is necessary to prevent a direct regulatory conflict would be created through the enactment of 810 KAR 6:030E, in the absence of this concurrent emergency regulation.

(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 is necessary to prevent duplication and conflict with 810 KAR 6:030E, which now establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and KAR Title 810, Chapter 1.

(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 is necessary to prevent duplication and conflict with 810 KAR 6:030E, which now establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and KAR Title 810, Chapter 1.

(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 is not an amendment.

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

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

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

(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: Licensed racing associations will now be required to follow the procedures outlined in 810 KAR 6:030E.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation is not anticipated to increase compliance costs 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: This regulation will provide clarity to racing participants, as it prevents duplication and conflict with 810 KAR 6:030E, which now establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and KAR Title 810, Chapter 1.

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

(a) Initially: This regulation is not anticipated to increase compliance costs for any regulated entity or the commission.

(b) On a continuing basis: This regulation is not anticipated to increase compliance costs for any regulated entity or the commission.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation is not anticipated to increase compliance costs for any regulated entity or the commission.

(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 regulation is not anticipated to increase compliance costs for any regulated entity or the commission.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation is not anticipated to increase compliance costs for any regulated entity or the commission.

(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, 230.215, 230.361, 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 regulation is not anticipated to increase revenue.

(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 regulation is not anticipated to increase revenue.

(c) How much will it cost to administer this program for the first year? This regulation is not anticipated to create any cost.

(d) How much will it cost to administer this program for subsequent years? This regulation is not anticipated to create any cost.

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