

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)

810 KAR 5:060. Entries and starters.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entries.

Section 1. Entries. An entry shall:

- (1) Be made in writing, by telephone, or electronically to the association racing secretary's office;
- (2) Include the following information pertinent to the entry:
 - (a) The name of the horse;
 - (b) The name of the trainer;
 - (c) The name of the driver; and
 - (d) The class of the race into which the horse is to be entered; and
- (3) Comply with the provisions of Section 18 of this administrative regulation if the entry concerns an overnight event.
- (4) A horse shall only be permitted to enter if at the time of entry, the owner, trainer, or an authorized agent of the owner or trainer submits a complete medical record for such horse for the fourteen (14) day period prior to the entry date.

Section 2. Payment of Entry Fee. An entry fee shall be due and payable with declaration to start and shall not be refunded if the horse fails to start, unless the horse dies between the time of declaration to start and the start of the race.

Section 3. Receipt of Entries for Early Closing Events, Late Closing Events, Stakes and Futurities.

- (1) An entry that is not received prior to the hour of closing shall be ineligible.
 - (a) If an entry or payment in a stake, futurity, or early closing race is payable on a Sunday or a legal holiday that falls on Saturday, the payment shall be due on the following Monday, and if made by mail, the envelope shall be postmarked on or before the following Tuesday.
 - (b) If a payment is due on a Monday that is a legal holiday, the payment shall be due on the following Tuesday, and if made by mail, the envelope shall be postmarked on or before the following Wednesday.
- (2) Postage meter. If an entry is received by letter bearing the postage meter date without a postmark, the postage meter date shall be considered to be a postmark if the letter is received within seven (7) days following the closing date of the event. A letter received later than seven (7) days following the closing date of the event shall not be considered a valid entry or payment.

Section 4. Deviation from Published Conditions. An entry and payment not governed by published conditions shall be void and any deviation from published conditions shall be a violation of this administrative regulation. A nominator who is allowed privileges not in accordance with the published conditions of the race, or which are in conflict with the published conditions or with Title 810 KAR, shall be barred from receiving any portion of the purse, and any person who knowingly allows the privileges shall be in violation of this administrative regulation.

Section 5.

(1) Ineligible Horse in a Stakes Race.

(a) A nominator shall be required to guarantee the identity and eligibility of entries and declarations. If a nominator provides incorrect information, winnings shall be forfeited and redistributed to eligible entries, and the person who provided the information shall be in violation of this administrative regulation.

(b) A person who obtains a purse or money through fraud or error, with the exception of paragraph (c) of this subsection, shall surrender or repay the proceeds upon demand. If the proceeds are not repaid upon demand, the horse that was the subject of the fraud or error, and all persons involved, shall be in violation of this administrative regulation and subject to suspension or revocation until repayment is made.

(c) If a horse is declared ineligible as a result of the negligence of the race secretary, the association shall reimburse the owner for the resultant loss of winnings.

(2) Ineligible horse drawn into overnight race. The trainer shall be responsible for entering the horse in the race for which it is eligible.

Section 6. Transfer of Ineligible Horse. A horse entered in an event for which it is not eligible may be transferred to any event for which it is eligible at the same gait.

Section 7. Withholding Purse on Ineligible Horse. An association shall withhold the purse of a horse, with or without a formal protest, if the association receives information that the entry or declaration was fraudulent or ineligible.

Section 8. Agreement to Race Under Rule. An entry shall constitute an agreement that the horse to be entered and all persons associated with or having control of the horse shall abide by Title 810 KAR.

Section 9. Early Closing Events and Late Closing Races.

(1) Date and place. The sponsor shall state the place and date the event will be raced, and there shall not be a change in the date, program, events, or conditions after the nominations have been taken without the written consent of the owners or trainers of all horses eligible when the conditions are changed.

(2) Filing conditions. An entry blank shall be filed with the commission.

(3) Payments shall be made on or before the 15th day of the month. Nominations and payments other than starting fees in early closing events shall be advertised to be received on the 15th day of the month.

(4) List of nominations. A complete list of nominations to any late closing race or early closing event shall be made available within twenty (20) days after the date of closing to each nominator and the commission.

(5) Procedure if event does not fill. If the event does not fill, each nominator and the commission shall be notified within ten (10) days, and a refund of nomination fees shall accompany the notice.

(6) Transfer provisions for change of gait.

(a) The following conditions shall govern transfers if there is a change of gait, unless the association makes available to the commission, at least thirty (30) days prior to the first publication, its early closing conditions and receives the approval of the commission for those conditions:

1. If a condition published for early closing events allows transfer for change of gait, the transfer shall be to the slowest class for which the horse is eligible, and eligibility shall be determined at time of closing of entries.

2. The race to which transfer may be made shall be the race nearest in time to the date of the event for which the horse was originally entered.

(b) A two (2) year old, three (3) year old, or four (4) year old entered in a class that corresponds to its age group shall be permitted to transfer only to a class for the same

age group at the adopted gait, and shall be the race nearest in time to the date of the original event. If transfer is made, entry fees shall be so adjusted.

Section 10. Subsequent Payments; List of Eligibles. If subsequent payments are required by the published conditions, a complete list of those horses withdrawn or declared out shall be made within fifteen (15) days after:

- (1) The payment was due; and
- (2) The list has been made available to each nominator and the commission.

Section 11. Trust Funds. Fees paid in early closing events shall be segregated and held as trust funds until the event is contested.

Section 12. Early Closing Events by New Track. An early closing event at a pari-mutuel meeting shall not be advertised, nor shall nominations be taken for an early closing event, until the event has been approved by the commission. An association accepting nominations to early closing races, late closing races, stakes, or futurities shall provide stable space to a horse nominated and eligible to the event the day before, the day of, and the day after the race.

Section 13. Limitation on Conditions. Conditions of an early closing event or a late closing race shall not add a horse that has not been nominated to an event or eliminate an already nominated horse from an event by reason of the performance of the horse at an earlier meeting during the same season, and conditions purporting to do so shall be considered to be invalid. An early closing event or a late closing event shall not have more than two (2) also eligible conditions.

Section 14. Purse Requirements. In early closing races, late closing races, and overnight races requiring entry fees, all monies paid in by the nominators in excess of eighty-five (85) percent of the advertised purse shall be added to the advertised purse and the total shall then be considered to be the advertised purse. In addition to adding excess entry fees as provided in this section, the sponsor shall add at least fifteen (15) percent to the advertised purses of late closing races and overnight races. Fifteen (15) percent of all monies paid in by the nominators shall be added to all early closing races by the sponsor.

Section 15. Requirement to Run Race.

- (1) An association shall specify how many entries are required for overnight events and, after the condition is fulfilled, the race shall be run unless declared off as provided in 810 KAR 5:070.
- (2) If six (6) or more betting interests are declared in to start an early closing event or a late closing event, the race shall be run, unless it is declared off. Stakes and futurities shall be raced if one (1) or more horses are declared in to start unless declared off as provided in 810 KAR 5:070.
- (3) In an early closing event, if fewer horses are declared in than are required to start, and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to the sum of the entry fees submitted.

Section 16. Elimination Heats or Two (2) Divisions.

- (1) If the number of horses declared in to start exceeds twelve (12) on a half-mile track or sixteen (16) on a larger track, the association conducting the race shall have the option, before positions are drawn, of announcing that the race shall be run in elimination heats. A maximum of two (2) tiers of horses, allowing eight (8) feet per horse, shall start in any race.
- (2) If an early closing event or late closing event is divided, each division shall race for at least seventy-five (75) percent of the advertised purse unless otherwise specified in the conditions of the race.

(3) If a stake race or futurity is divided, the conditions of the race shall determine the number of starters per division and the purse distribution.

Section 17. Elimination Plans.

(1) If elimination heats are required, or are specified in the published conditions, the race shall be run in the following manner unless otherwise stated in the conditions or conducted under another section of this administrative regulation. The field shall be divided by lot, and:

- (a) The first division shall race a qualifying dash for thirty (30) percent of the purse;
- (b) The second division shall race a qualifying dash for thirty (30) percent of the purse;
- (c) The horses so qualified shall race in the main event for forty (40) percent of the purse; and
- (d) The winner of the main event shall be the race winner.

(2) Unless otherwise specified in the conditions of the race, the judges shall draw the starting positions for the main event and shall determine:

- (a) Which of the dash winners shall have the pole and which the second position; and
- (b) Which of the two (2) horses that have been second shall start in third position, which in fourth position, similarly in succession. An elimination dash and the concluding heat shall be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

(3) If there are three (3) or more separate heat or dash winners, those winners shall return for a single event race-off to determine the race winner. For that single event race-off, the participating horses shall be assigned post positions according to the order of their finish in the previous heat or dash.

Section 18. Overnight Events. More than nine (9) horses shall not start on a half-mile track in overnight events and more than twelve (12) horses shall not start on larger tracks at extended pari-mutuel meetings allowing eight (8) feet per horse.

Section 19. Elimination Race for Early Closing Event, Stake, or Futurity. If elimination races are provided for in the conditions of an early closing event, stake, or futurity, the elimination race shall be held not more than five (5) days prior to contesting the main event (excluding Sunday) and omitting the day of the race.

Section 20. Declaration.

(1) Extended pari-mutuel meetings. The declaration time shall be the time posted on the condition sheet.

(2) A horse shall not start in more than one (1) race on a racing day.

(3) The time when declarations close shall be the time in use at the meeting.

(4) The association shall provide an entry box with an aperture through which declarations shall be deposited.

(5) At the close of entries the presiding judge or the race secretary shall remove any entries in the box and sort the declarations at the time specified on the condition sheet.

(6) If it is necessary to reopen any race, a minimum of two (2) public announcements shall be made, and the box shall be reopened at the announced time.

(7) In races of a duration of more than one (1) dash or heat at a pari-mutuel meeting, the judges may draw post positions from the stand for succeeding dashes or heats.

(8) Effect of failure to declare on time. If an association requires a horse to be declared at a stated time, failure to declare at that time shall be considered a withdrawal from the event.

(9) After declaration to start has been made, a horse shall be withdrawn only:

- (a) Because of sickness, lameness, injury, or hazardous track conditions; and
- (b) With the permission of the presiding judge.

(10) Horse omitted through error.

- (a) Except as provided in this subsection, a drawing shall be final unless there is conclusive evidence that a horse was properly declared and omitted from the race, and the omission is verified to be due to an error of the association's racing office.
- (b) The race shall be redrawn if the error is found prior to scratch time.
- (c) If the race has multiple divisions, a horsemen's representative and a judge shall draw the division by lot rather than redraw the entire race.
- (d) If there is a division or divisions with short fields, the division or divisions shall be chosen by lot to determine which division shall be drawn.
- (e) If the error is found after scratch time, then the horse shall be added to the outside.

Section 21. Qualifying Races. At an extended pari-mutuel meeting, declarations for overnight events shall be governed by the following:

- (1)
 - (a) Within forty-five (45) days of being declared in, a horse that has not raced previously at the gait chosen shall:
 - 1. Complete a qualifying race in compliance with the conditions set forth by the association under the supervision of a judge holding a presiding or associate judge's license for pari-mutuel meetings; and
 - 2. Acquire at least one (1) charted line by a licensed charter.
 - (b) Time and beaten lengths shall be determined by a standard photo finish.
- (2)
 - (a) The requirements of subsection (1) of this section shall apply to a horse that does not show a charted line for:
 - 1. The previous season; or
 - 2. Within its last six (6) starts.
 - (b) Uncharted races contested in a heat of more than one (1) dash, and consolidated according to subsection (4) of this section, shall be considered one (1) start.
- (3)
 - (a) The requirements of subsection (2) of this section shall not apply if a horse:
 - 1. Has raced at a charted meeting during the current season; and
 - 2. Has two (2) meetings at which the races are not charted.
 - (b) The information from the uncharted races may be:
 - 1. Summarized, including each start; and
 - 2. Consolidated in favor of charted lines.
- (4) If the race is less than one (1) mile, the consolidated line shall list the carry date, place, time, driver, finish, track condition, and distance.
- (5)
 - (a) The judges may require a horse that has been on the judge's list to successfully complete a qualifying race.
 - (b) If a horse has raced in individual time not meeting the qualifying standards for that class of horse, after making allowance for track variations, the horse shall be required to successfully complete a qualifying race.
- (6) A horse shall be required to qualify in a qualifying race if it is on the judge's list for any of the following:
 - (a) Repeated breaks on a fast or good track or breaks off of a qualifying race on a fast or good track;
 - (b) Scratched sick or lame in two (2) consecutive starts, scratched sick or lame following a qualifier, or scratched sick or lame prior to or after a break line on a good or fast track;
 - (c) Refusing to come to the gate. Horses causing two (2) recalls shall be scratched and placed on the starter and qualifying list;
 - (d) Poor performance; or

- (e) Being unmanageable.
- (7) Qualifying races shall be:
 - (a) Held at least one (1) week prior to the opening of a meeting of ten (10) days or more; and
 - (b) Scheduled as needed through the last week of the meeting.
- (8)
 - (a) A race to qualify drivers and horses shall be charted, timed, and recorded.
 - (b) A race to qualify only drivers shall not be required to be charted, timed, and recorded.
- (9)
 - (a) If a horse takes a win record in a qualifying race, the record shall be prefaced with the letter "Q".
 - (b) The presiding judge shall report the test on the judge's sheet.
- (10) Before it is permitted to start in a race with pari-mutuel wagering, a horse shall have a clean charted line within forty-five (45) days, race day to race day, and meet the standards of the meeting.
- (11) A horse shall not enter more than one (1) qualifying race per day.

Section 22. Coupled Entries.

- (1)
 - (a) Except as provided by the provisions of this section, two (2) or more horses shall be coupled as a single entry if they are:
 - 1. Owned or trained by the same person; or
 - 2. Trained in the same stable by the same management.
 - (b) A wager on one (1) of the horses coupled as an "entry" shall be a wager on all horses in the entry.
- (2)
 - (a) If a trainer enters two (2) or more horses, under bona fide separate ownerships or the same ownership, each horse may race as a separate betting entry if:
 - 1. The association has requested they be permitted to race as separate betting entries; and
 - 2. The judges approve the request.
 - (b) In overnight events the entries do not exclude any single interest.
 - (c) In overnight events, part of an uncoupled entry drawing also eligible may not be moved into a race to replace another part of the uncoupled entry.
 - (d) If more than one (1) horse is trained by the same person, that fact shall be stated prominently in the program.
 - (e) The judges may place both horses in an uncoupled entry if the judges deem that the actions of one part of the uncoupled entry helped or improved the other.
 - (f) If the race is split in two (2) or more divisions, horses coupled or uncoupled in a single entry shall be seeded insofar as possible, in the following order, by:
 - 1. Owners;
 - 2. Trainers; and
 - 3. Stables.
 - (g) Divisions and post positions shall be drawn by lot.
 - (h) Elimination heats also shall be governed by the provisions of paragraphs (f) and (g) of this subsection.
- (3) The presiding judge or the race secretary shall be responsible for coupling horses.
- (4)
 - (a) If it is necessary to protect the public interest, horses that are separately owned or trained may be coupled for pari-mutuel wagering; and
 - (b) An entry shall not be rejected on that basis.

(5) If an owner, lessor, or lessee has a vested interest in another horse in the same race, it shall constitute an entry.

Section 23. Also Eligibles.

- (1) More than two (2) horses shall not be drawn as also eligibles for a race.
- (2) The positions of also eligibles shall be drawn along with the starters in the race.
- (3) If one (1) or more horses are excused by the judges, the also eligible horse shall:
 - (a) In handicap races in which the handicap is the same, take the place of the horse that it replaces;
 - (b) In handicap races in which the handicap is different, take the position on the outside of the horses with a similar handicap; or
 - (c) In other races, take the post position drawn by the horse it replaces.
- (4) A horse shall not be added to a race as an also eligible unless the horse was drawn at the time declarations closed.
- (5)
 - (a) A horse shall not be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list shall not be drawn without the permission of the judges.
 - (b) The owner or trainer of a horse moved into the race from the also eligible list shall be notified that the horse is in to go.
- (6) A horse on the also eligible list that is not moved into race by scratch time of the track shall be released.

Section 24. Preference.

- (1)
 - (a) Preference shall be given in overnight events according to a horse's last previous purse race during the current year.
 - (b) The preference date on a horse that has drawn to race and has been scratched shall be the date of the race from which the horse was scratched.
- (2) If a horse is racing for the first time in the current year, the date of the first successful qualifier shall be considered the horse's last race date, and preference shall be applied accordingly.
- (3)
 - (a) If an error has been made in determining or posting a preference date, and the error deprives an eligible horse of an opportunity to race, the trainer involved shall report the error to the racing secretary within one (1) hour of the announcement of the draw.
 - (b) If a preference date error has occurred, the race shall be redrawn.

Section 25. Judge's List.

- (1)
 - (a) A horse shall be placed on a judge's list by the presiding judge if it is unfit to race because it:
 1. Is dangerous;
 2. Is unmanageable;
 3. Is sick;
 4. Is lame;
 5. Is unable to show a performance to qualify for races at the meeting; or
 6. Has exhibited repeated breaks.
 - (b) The owner or trainer shall be notified in writing:
 1. If a horse is placed on a judge's list; and
 2. Of the specific item listed in paragraph (a) of this subsection upon which the action is based.

- (c) Declaration on a horse placed on a judge's list shall be refused.
- (d) If a horse is placed on a judge's list, the clerk of the course shall make a note on the electronic eligibility of the horse stating the:
 - 1. Date it was placed on the judge's list;
 - 2. Reason it was placed on the judge's list; and
 - 3. If the horse has been removed from the judge's list, the date of its removal.

(2)

- (a) A presiding judge or other official at a nonextended meeting shall not remove from the judge's list and accept as an entry a horse that:
 - 1. Has been placed on a judge's list; and
 - 2. Has not been removed from the judge's list because it is dangerous or unmanageable.

(b) A presiding judge shall refuse declarations on a horse that has been placed on, but not removed from, a judge's list.

- (3) A horse scratched from a race because of lameness or sickness shall not race for a period of seven (7) days beginning with the day of the scratch.

Section 26. Driver.

- (1) A declaration shall state the name of the horse's driver and the driver's colors.
- (2) A driver shall not be changed after scratch time of the track without the permission of the judges. The judges shall grant permission if:
 - (a) The driver is unable to be on the premises for a good-faith reason beyond his or her control; or
 - (b) The driver is on the premises but unable to participate due to illness or injury.
- (3) If a nominator starts two (2) or more horses, the judges shall approve the second and third drivers if no conflicts of interest exist between the ownership of the horses and the drivers.

Section 27. Withdrawals and Scratches.

- (1) The presiding judge shall call a meeting of all horsemen on the grounds before the opening of an extended pari-mutuel meeting to appoint a committee to consist of the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horseman's Association or the Kentucky Harness Association to consider matters relating to the withdrawal of horses due to bad track or weather conditions.

(2)

- (a) If track conditions are questionable due to weather, the presiding judge shall call a meeting of the committee established pursuant to subsection (1) of this section.

(b) Upon unanimous decision by the committee that track conditions are safe for racing, withdrawals shall not be made.

(3)

- (a) An entrant may scratch a horse if:

- 1. A decision by the committee that the track is safe is not unanimous; and
- 2. The entrant has posted ten (10) percent of the purse for the race.

(b) A person shall not scratch a horse for a reason other than sickness, lameness, injury, or hazardous track conditions.

(c) If sufficient withdrawals are received to cause the field to be less than six (6), the association shall have the right to postpone an early closing event or stake and cancel an overnight event.

(4)

(a) The money posted pursuant to subsection 3(a)2. of this section shall be forwarded to the commission.

(b) The commission shall determine whether a withdrawal was for sickness, lameness, injury, or hazardous track conditions.

(c) The money shall be:

1. Forfeited if the commission determines that the withdrawal was not for good cause; or
2. Refunded if the commission determines that the withdrawal was for good cause.

(5) This section applies only to the withdrawal of horses that have been properly declared in and does not apply to postponement as set forth in 810 KAR 5:070.

Section 28. Length of Race and Number of Heats.

- (1) A race or dash shall be listed at a stated distance in units no shorter than one-sixteenth (1/16) of a mile.
- (2) The length of the race and the number of heats shall be stated in the conditions.
- (3) If a distance or number of heats is not specified, any race shall be a single mile dash, except at fairs and meetings of a duration of six (6) days or less where they shall be conducted in two (2) dashes at one (1) mile distances.

Section 29. Two (2) Year Olds. A two (2) year old shall not be permitted to:

- (1) Start in a dash or heat exceeding one (1) mile in distance; or
- (2) Race in more than two (2) heats or dashes per day.[

(45 Ky.R. 1953; 3136; eff. 5-31-2019; 46 Ky.R. 2526; eff. 8-25-2020; 48 Ky.R. 1378; eff. 4-5-2022.)

JONATHAN RABINOWITZ, Chair
RAY PERRY, Secretary

APPROVED BY AGENCY: August 30, 2021

FILED WITH LRC: September 2, 2021

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on November 22, 2021 via video conference at the 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 p.m. on November 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, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.