

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)

810 KAR 4:060. Objections and complaints.

RELATES TO: KRS 230.215, 230.260

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 conditions under which racing is conducted in Kentucky. This administrative regulation establishes the requirements and procedures for lodging objections and complaints.

Section 1. Persons Eligible to Lodge Objections or Complaints.

(1) Except as established by subsection (2) of this section, an objection or complaint against a horse or jockey entered in a race shall be received only if lodged:

- (a) In accordance with Sections 2 and 3 of this administrative regulation; and
- (b) By the owner or authorized agent of the owner, the trainer, or the jockey of another horse engaged in the same race and whose horse suffered or could suffer by the alleged violation of KAR ~~Title~~^{Titles} 810 ~~or 811~~.

(2) An inquiry may also be made by a racing official.

Section 2. Procedures for Objections and Complaints.

(1) An objection as to interference or a foul occurring during the running of the race shall be lodged with the stewards orally or by telephone. All other objections or complaints shall be made in writing and be signed by the complainant.

(2) An objection or complaint lodged during a race meeting shall be addressed to the stewards. An objection or complaint lodged after the termination of a race meeting shall be addressed to the commission at the commission's general office.

(3) An objection or complaint once lodged shall not be withdrawn without permission of the stewards.

Section 3. Time for Lodging Objections or Complaints.

(1) Except as established by subsection (2) of this section, an objection or complaint based on one (1) of the following violations of KAR Title 810 shall be lodged by an aggrieved person within the time prescribed:

- (a) At least one (1) hour before post time of the race, if the objection or complaint is based on incorrect weight allowance claimed for a horse entered to race;
- (b) Before the race has been posted as official on the infield results board, if the objection or complaint is based on interference by a horse, improper course run by a horse, foul riding by a jockey, or any other matter occurring during and incident to the running of the race;
- (c) Not later than one (1) year from the date the race was run, if the objection or complaint is based on fraudulent or willful misstatement in an entry under which a horse has run;
- (d) Not later than forty-eight (48) hours after post time of the race, if the objection or complaint involves the claim of a horse or a violation of 810 KAR 4:010, Section 4; and
- (e) Within one (1) week after post time of the race, if the objection or complaint is based on any other violation of KAR Title 810.

(2) A steward may declare a horse ineligible or disqualified at any time.

Section 4. Final Determination of Objections to Acts in Race.

- (1) The stewards shall:
 - (a) Make all findings of fact as to all matters occurring during and incident to the running of a race;
 - (b) Determine all objections and inquiries based on interference by a horse, improper course run by a horse, foul riding by a jockey, and all other matters occurring during and incident to the running of a race; and
 - (c) Determine the extent of disqualification, if any, of horses in a race for a foul committed during the race.
- (2) Findings of fact and determination shall be final and shall not be subject to appeal.
- (3) In determining the extent of disqualification, the stewards shall consider the seriousness and circumstances of the incident and may:
 - (a) Disqualify and place the offending horse~~[, and any horses coupled with it as an entry,]~~ behind any horse that may have suffered by reason of the foul;
 - (b) Disqualify and declare the offending horse~~[, and any horses coupled with it as an entry,]~~ unplaced;
 - (c) Disqualify the offending horse~~[, and any horses coupled with it as an entry,]~~ from participation in all or any part of the purse;
 - (d) Declare void a track record set or equaled by a disqualified horse~~[, or any horses coupled with it as an entry,]~~;
 - (e) Affirm the placing judges' order of finish and suspend the jockey if, in the stewards' opinion, the foul riding had no effect on the order of finish; or
 - (f) Disqualify the offending horse and not suspend the jockey if, in the stewards' opinion, the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of the jockey.
 - (g) If, in the opinion of the stewards, the order of finish of the race was affected by deliberate interference that was for the benefit of another horse with common ties through ownership or training, both horses may be subject to the penalties in (3)(a), (b), (c), and (d).

Section 5. Dispute of a Race after Declared Official for Pari-mutuel Payoff. If the result of a race is placed in dispute by the lodging of an objection or complaint or by discovery of an alleged violation of KAR Title[Titles] 810 ~~or 811~~ after the race has been declared official for pari-mutuel payoff, the procedures established in this section shall apply pending final determination of the disputed race.

- (1) The purse money and trophy to which the horse objected to may have been entitled shall be withheld and placed in escrow by the association until final adjudication of the dispute, except the stewards may order any portion of the purse money to be distributed if the distribution would not be affected by the determination of the dispute.
- (2) If purse money or trophy has been awarded to an owner prior to the lodging of an objection or discovery of an alleged violation of KAR Title[Titles] 810 ~~or 811~~ that places the outcome of a race in dispute, the money or trophy shall be returned immediately to the association on order of the stewards. Upon final adjudication of the dispute, the person deemed to be entitled to the purse money or trophy shall be entitled to an order of recovery from any person or association holding the same.
- (3) The horse that crossed the finish line first and any other horse that may become the winner of a disputed race shall be considered winners of that race until the matter is finally adjudicated.

Section 6. Determination of a Disputed Race. The stewards shall determine an objection, complaint, or alleged violation of KAR Title[Titles] 810 ~~or 811~~ lodged or discovered after a race has been declared official for pari-mutuel payoff and shall issue a ruling. If the stewards find that a requirement of KAR Title[Titles] 810 ~~or 811~~ was violated, the stewards may penalize the persons responsible, disqualify any horses in the disputed race,

and award the purse money and trophy in accordance with any resulting revised order of finish in the disputed race.

Section 7. Revised Order of Finish after Race Declared Official for Pari-mutuel Payoff. If a horse is disqualified after a race has been declared official for pari-mutuel payoff and causes revision of the order of finish in the race:

- (1) The pari-mutuel payoff shall not be affected in any way; and
- (2) The stewards shall ensure that appropriate corrections are made in official records for the race and in racing statistics as might pertain to the respective horses, jockeys, trainers, owners, breeders, sires, dams, and broodmare sires, by reporting the corrections to the racing secretary and to the Daily Racing Form.

Section 8. Complaints Against Officials. A complaint or protest by a licensee based on a decision or act of a racing official other than the stewards, or concerning any matter that may occur on association grounds not provided for by Sections 4 and 5 of this administrative regulation, shall be made in writing, signed by the complainant, and submitted to the stewards. A complaint or protest by a person based on a decision, act, or conduct of the stewards shall be submitted to the commission as established by 810 KAR 9:010.

(45 Ky.R. 1927; 3121; eff. 5-31-2019; 48 Ky.R. 2633; eff. 10-4-2022.)

JONATHAN RABINOWITZ, Chairman
RAY PERRY, Secretary

APPROVED BY AGENCY: March 14, 2022

FILED WITH LRC: March 15, 2022 at 11:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 a.m. on May 24, 2022 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, 2022. 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 +1 (859) 246-2040, fax +1 (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 involves rules concerning objections and complaints in thoroughbred and other flat racing.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to provide rules concerning objections and complaints in thoroughbred and other flat racing.

(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. This administrative regulation prescribes conditions relating to objections and complaints in thoroughbred and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation sets forth requirements and rules concerning objections and complaints in thoroughbred and other flat racing that enhance 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 corrects a reference to KAR Chapter 811 and provides conditions in which the stewards may subject horses to penalties for interference.

(b) The necessity of the amendment to this administrative regulation:

This amendment enhances the safety and integrity of racing by setting forth requirements and rules concerning objections and complaints in thoroughbred and other flat racing.

(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. This administrative regulation prescribes the conditions relating to objections and complaints in thoroughbred and other flat racing.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment sets forth requirements and rules concerning objections and complaints in thoroughbred and other flat racing that enhance the integrity and safety of racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Kentucky's licensed race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of 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 question (3) 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Participants in horse racing, and especially owners, trainers, and jockeys, will be affected by the rules set forth in this administrative regulation pertaining to objections and complaints in thoroughbred and other flat racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Participants in racing will benefit from clearly defined rules that enhance the integrity and safety 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:

No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of 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:

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, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 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 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