

PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)

820 KAR 1:130. Administrative actions.

RELATES TO: KRS 238.510, 238.515, 238.530, 238.555, 238.560, 238.995

STATUTORY AUTHORITY: KRS 238.515, 238.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515 and 238.560 authorize the Department of Charitable Gaming to take appropriate disciplinary action against licensed charitable organizations, charitable gaming facilities, manufacturers, distributors, or persons who do not operate in compliance with KRS Chapter 238 and the administrative regulations promulgated thereunder. KRS 238.560 authorizes the department to classify offenses and recommended administrative actions. This administrative regulation establishes the required classifications and penalties.

Section 1. Department Enforcement Powers.

- (1) The department may issue a letter of warning, letter of reprimand, or a cease and desist order to any license holder for any violation of KRS Chapter 238 or 820 KAR Chapter 1.
- (2) The department may impose administrative action pursuant to KRS 238.560 if the department determines that the action will deter future violations and promote efforts to correct the violation cited.

Section 2. Fines.

- (1) The department may assess fines against any license holder in accordance with the following schedule:
- (2) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to charitable gaming recordkeeping and reporting requirements, except for failure to file quarterly reports, may be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during a three-year period may be subject to a fine not to exceed \$1,000 for each offense.
- (3) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to the conduct of charitable games, may be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during a three-year period may be subject to a fine not to exceed \$1,000 for each offense.
- (4) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to manufacture, packaging, and distribution of charitable gaming supplies and equipment may be subject to a fine not to exceed \$500 for each offense. A second or subsequent violation of the same statutory or regulatory provision during a three-year period may be subject to a fine not to exceed \$1,000 for each offense.
- (5) A violation of the provisions of KRS 238.530(10) or 238.555(3) relative to conflicts of interest among types of licensees may be subject to a fine not to exceed \$750 for each offense. A second or subsequent violation during a three-year period may be subject to a fine not to exceed \$1,000 for each offense.
- (6) A violation for conducting any activity without a license for which a license is required pursuant to KRS Chapter 238 and 820 KAR Chapter 1 may be subject to a fine not to exceed \$1,000 for each offense.
- (7) A violation for making false statements in any documents submitted to the department may be subject to a fine not to exceed \$1,000 for each offense.
- (8) A violation of KRS Chapter 238 or 820 KAR Chapter 1 relative to diversion of net receipts from authorized expenses or charitable purposes, unlawful compensation to an individual involved in the conduct of charitable gaming, or any other inurement of net

receipts to the private benefit or financial gain of an individual or person, may be subject to a fine not to exceed \$1,000 for each offense.

(9) A violation of KRS 238.510(5) relative to gambling offenses committed on licensed charitable gaming premises or in conjunction with charitable gaming may be subject to a fine not to exceed \$1,000 for each offense.

(10) Any other violation of KRS Chapter 238 or 820 KAR Chapter 1 for which a fine is not established in this section may be subject to a fine not to exceed \$1,000 for each offense.

Section 3. Probation.

(1) The department may impose upon any license holder a term of probation for any violation of KRS Chapter 238 or 820 KAR Chapter 1.

(2) The department may impose this administrative action, pursuant to KRS 238.560(3), if it determines that department oversight and monitoring of the license holder's activities will promote efforts to correct the cited violation and deter future violations.

Section 4. Revocation, Suspension, or Denial of License.

(1) The department shall revoke, suspend, or deny a license or application for a license if:

(a) An applicant, license holder, license holder seeking renewal, or individual associated with the applicant or license holder in a capacity established in KRS 238.525(3) fails to meet the requirements of KRS 238.525(4) or 820 KAR 1:005 ;

(b) A license holder fails to pay a fine, correct a violation, or comply with any other requirement imposed by a final order of the department within the previous five years;

(c) A license holder, upon notice of delinquency, fails to remit to the department any charitable gaming fee required pursuant to KRS 238.570(1);

(d) A licensed charitable organization fails to maintain its federal tax-exempt status or status as a common school, institute of higher learning, or public college or university, as required by KRS 238.535(12)(a); or

(e) A licensed charitable organization fails to maintain an office or place of business in the Commonwealth of Kentucky, as required by KRS 238.535(12)(b) and

(d).

(2) The department may revoke, suspend, or deny the license or application of a licensed charitable organization, manufacturer, distributor, or charitable gaming facility for violations of KRS Chapter 238 or 820 KAR Chapter 1 if the nature, frequency, and severity of the offenses charged or the license holder's or applicant's history of previous violations demonstrate an unwillingness or inability to operate in compliance with the law.

Section 5. Written Notice of Violation. The department shall issue a written notice of violation to a license holder determined to have violated any provision of KRS Chapter 238 or 820 KAR Chapter 1. Any notices of violation issued to a license holder shall be considered by the department in evaluating the license holder's history of previous violation. A notice of violation shall state the provisions alleged to have been violated and shall notify the license holder that the department may take administrative action against the license holder as a result of the violations.

Section 6. Investigations. A person may submit a request, in writing, to the department to initiate an investigation of an alleged violation.

(28 Ky.R. 1539; 2039; eff. 3-13-2002; TAm eff. 8-9-2007; 42 Ky.R. 960; eff. 1-4-2016; 44 Ky.R. 2693; 45 Ky.R. 1607; eff. 1-4-2019; TAm eff. 11-22-2019.)

This is to certify that this administrative regulation was distributed for review and comment to the Charitable Gaming Advisory Commission prior to its adoption, as required by KRS 238.522(1).

AMBROSE WILSON IV, Commissioner

APPROVED BY AGENCY: January 12, 2023

FILED WITH LRC: January 13, 2023 at 10:15 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2023, at 1 PM Eastern Time at the Mayo-Underwood Building, Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. 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 March 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.