

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)

809 KAR 10:008. Disciplinary actions and hearings.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361, Chapter 13B

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260 requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." This administrative regulation establishes procedures and articulate grounds for disciplinary actions, imposing sanctions, investigating suspected violations, providing notice of disciplinary actions, and requesting and conducting an administrative hearing.

Section 1. Grounds for Disciplinary Actions.

- (1) The racing commission may take disciplinary action against any person holding a license for a violation of any of the provisions of KRS Chapter 230, or any of the regulations promulgated thereunder, by the Licensee or its employees or agents.
- (2) Acceptance or renewal of a license by a Licensee constitutes an agreement on the part of the license-holder to be bound by all the racing commission statutes and regulations.

Section 2. Violations.

- (1) It shall be a violation of this administrative regulation if an applicant or licensee:
 - (a) Provides the racing commission, any advisory committee, or any racing commission employee with incorrect, false, or misleading information;
 - (b) Fails to furnish information requested by the racing commission, any advisory committee, or any racing commission employee;
 - (c) Is charged or convicted of a crime involving moral turpitude, a felony, sports wagering, cruelty, mistreatment, abuse, or neglect of a horse, or if the crime discredits or tends to discredit the Commonwealth of Kentucky, sports wagering, or the gaming industry;
 - (d) Engages in conduct that is against the best interests of horse racing, pari-mutuel wagering, or sports wagering; or
 - (e) Violates any provision of KRS Chapter 230, KAR Title 810, or KAR Title 809.
- (2) For any violation established in subsection (1) of this section, the racing commission may:
 - (a) Deny a license application;
 - (b) Suspend or revoke a license;
 - (c) Issue a fine or monetary penalty;
 - (d) Issue licensure conditions, such as restitution of money, restitution of property, or making periodic reports to the racing commission or designee as required; or
 - (e) Issue a written reprimand or admonishment.

Section 3. Disciplinary Process Investigations.

- (1) The racing commission shall investigate suspected violations of KRS Chapter 230 and KAR Titles 809 and 810 of the Kentucky Administrative Regulations.
- (2) Upon the completion of the investigation, the person or persons completing the investigation shall submit a written report to the commission containing a statement of facts revealed by the investigation.
- (3) Based on consideration of the investigative report, the commission shall determine whether there is probable cause to believe that a violation has been committed.

Section 4. Notice of Disciplinary Action and Appeals.

- (1) Upon determination that probable cause exists, the commission shall issue written notice of disciplinary action. The notice shall establish:
 - (a) The statutory or regulatory violation;
 - (b) The factual basis on which the disciplinary action is based;
 - (c) The penalty imposed; and
 - (d) A statement that the notice may be appealed in accordance with KRS Chapter 13B by written notice sent to the racing commission within twenty (20) calendar days.
- (2) Notice of a disciplinary action under this section may be appealed to an administrative hearing.
- (3) A written request for an administrative hearing shall be filed with the racing commission within twenty (20) calendar days of the date of the notice. The request shall identify the specific issues in dispute and the legal basis on which the racing commission's or designee's decision on each issue is believed to be erroneous.
- (4) An administrative hearing under this section shall be conducted in accordance with KRS Chapter 13B.
- (5) If the request for an administrative hearing is not timely filed, the penalty laid out in the notice of disciplinary action shall be effective upon the expiration of the time to request an administrative hearing.
- (6) Denial of an application for licensure may also be appealed in accordance with KRS Chapter 13B, by submitting a written request for an administrative hearing to the racing commission within twenty (20) calendar days of the date of the notice of denial.

JONATHAN RABINOWITZ, Commission Chair

RAY PERRY, Secretary

APPROVED BY AGENCY: July 10, 2023

FILED WITH LRC: July 10, 2023 at 4 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 22, 2023, at 9:00 a.m., 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 was received by that date, the hearing may be cancelled. 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 September 30, 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.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 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 establishes procedures and articulates grounds for disciplinary actions, imposing sanctions, investigating suspected violations, providing notice of disciplinary actions, and requesting and conducting an administrative hearing.

(b) The necessity of this administrative regulation:

This regulation is necessary to provide specific rules related to disciplinary action taken by the commission against a license holder.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 230.260 requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." This regulation establishes standards related to disciplinary action taken by the commission against a license holder.

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

This regulation will assist in the effective administration of the statutes by establishing clear and specific standards related to disciplinary action against license holders. This protects the wagering public and promotes integrity in sports wagering.

(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 a new regulation.

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

This is a new regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

This is a new regulation.

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

This is a new regulation.

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

This regulation affects all sports wagering license holders.

(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:

License holders must observe and adhere to the regulations related to violations and disciplinary actions.

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

License holders may incur costs as part of a disciplinary action.

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

License holders will benefit from the protection of the wagering public and the promotion of integrity in sports wagering.

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

(a) Initially:

It is estimated that the commission will spend approximately \$2.4 million to implement sports wagering in Kentucky in the first year.

(b) On a continuing basis:

It is further estimated that the commission will spend approximately \$1.2 million annually to continue regulating sports wagering in Kentucky on a yearly basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The funding to implement and enforce sports wagering in Kentucky will come from the sports wagering administrative fund, as established in KRS 230.817.

(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 increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not establish any new fees or increase any current fees.

(9) TIERING: Is tiering applied?

Tiering is not applied, because this amended regulation will apply similarly to all similarly situated entities in an equal manner.

FISCAL NOTE

(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 230.260(16), KRS 230.361, KRS Chapter 13B

(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.

(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 will not generate revenue during 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 regulation will not generate revenue during subsequent years.

(c) How much will it cost to administer this program for the first year?

It is estimated that the commission will spend approximately \$2.4 million in the first year to implement sports wagering in Kentucky.

(d) How much will it cost to administer this program for subsequent years?

It is further estimated that the commission will spend approximately \$1.2 million annually to continue regulating sports wagering in Kentucky in 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 (+/-):See answers to (c) and (d) above.

Other Explanation:

None.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This regulation is not expected to generate cost savings for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This regulation is not expected to generate cost savings for subsequent years.

(c) How much will it cost the regulated entities for the first year?

License holders may incur costs related to disciplinary action taken by the commission.

(d) How much will it cost the regulated entities for subsequent years?

License holders may incur costs related to disciplinary action taken by the commission.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):\$0.00

Expenditures (+/-):License holders may incur costs related to disciplinary action taken by the commission.

Other Explanation:

None.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This regulation is not anticipated to have a major economic impact on Kentucky for the reasons stated above.