

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amended After Comments)

810 KAR 2:070. Thoroughbred and other flat racing associations.

RELATES TO: KRS 230.215(2), 230.260(8)

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations establishing conditions governing horse racing. This administrative regulation establishes requirements for thoroughbred and other flat racing associations.

Section 1. Maintenance of Grounds, Facilities and Uniform Track.

(1) The grounds and facilities of an association shall be maintained in a manner that provides for the:

- (a) Comfort and safety of patrons, employees, and other persons whose business requires their attendance; and
- (b) Health and safety of horses that are stabled, exercised, or entered to race at the association.

(2) The grounds and facilities of an association shall be:

- (a) Neat and clean;
- (b) Painted; and
- (c) In good repair.

(3) An association shall have implements adequate to maintain a uniform track, weather conditions permitting.

Section 2. Results Boards, Totalizators Required. An association shall provide and maintain mechanically operated totalizators and electronic boards that show odds, results, and other race information in plain view of patrons.

Section 3. Starting Gate.

(1) An association shall provide and maintain a working starting gate on every day horses are permitted to exercise on its racing strip.

(2) An association shall have in attendance one (1) or more persons qualified to keep the starting gates in good working order whenever the gates are in use.

(3) An association shall provide for periodic inspections of the starting gates.

Section 4. Stabling.

(1) An association barn and stall shall be:

- (a) Constructed of fire-resistant material;
- (b) Clean, sanitary, and equipped for adequate drainage; and
- (c) Maintained in good repair.

(2)

(a) Prior to the opening of a race meeting, the commission shall submit to the racing secretary a list of locations of approved off-track stabling facilities from which horses shall be permitted to race.

(b) The locations shall be considered association grounds.

Section 5. Stands for Officials.

(1) An association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for racing officials.

(2) The stands and their locations shall be approved by the commission.

(3) The floor of patrol judge stands shall be at least six (6) feet higher than the track rail.

Section 6. Distance Pole Markings.

(1) A thoroughbred or other flat racing association shall have:

- (a) Red and white quarter poles;
- (b) Green and white eighth poles; and
- (c) Black and white 16th poles.

(2) Permanent markers shall be located at each standard Arabian, quarter horse, paint horse, and appaloosa distance as applicable. Distance pole markers and permanent markers shall be located where they can be seen clearly from the stewards' stand. Each post shall be identified by color as follows: 110 yds., black and white stripes; 220 yds., white; 250 yds., blue; 300 yds., yellow; 330 yds., green; 350 yds., red; 400 yds., black; 440 yds., orange; 550 yds., blue and white stripe; 660 yds., yellow and white stripes; 770 yds., green and white stripes; 870 yds., red and white stripes; and 1,000 yds., red and blue stripes. In addition, for appaloosa races, markers shall be located at six (6) and six and one-half (6 1/2) furlongs to be painted yellow and white and orange and white, respectively.

Section 7. Lighting.

(1) An association shall provide and maintain flood lights that provide adequate illumination in the stable area and parking area.

(2) If an association conducts night racing, it shall provide adequate track lighting.

Section 8. Facilities for Stable Employees.

(1) An association shall provide and maintain in good repair adequate living quarters and conveniently located sanitary facilities that shall include showers, toilets, and wash basins for stable employees.

(2) Personnel shall not be permitted to sleep in a stall or barn loft.

Section 9. Facilities for Jockeys.

(1) An association shall provide and maintain adequate facilities for jockeys scheduled to ride each day.

(2) The facilities shall include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, and snack bar.

Section 10. Facilities for Commission.

(1) An association shall provide adequate office space for the commission on its grounds.

(2) To assist in the conduct of official business, an association shall provide the following to the commission:

(a) A season box, marked "Kentucky Horse Racing Commission", of six (6) to eight (8) seats; and

(b) A number of parking places sufficient for the commission and commission staff.

(3) An association shall honor for access to preferred parking facilities and other areas on its grounds a commission or Association of Racing Commissioners International ring, lapel button, or automobile emblem.

Section 11. Sanitary Facilities for Patrons. An association shall, on every racing day, provide sanitary toilets and wash rooms, and free drinking water adequate for the number of patrons and persons having business at the association that comply with applicable statutes, administrative regulations, codes, or ordinances.

Section 12. Manure Removal.

(1) An association shall provide and maintain manure pits of the size and construction adequate to handle refuse from stalls.

(2) The contents of the manure pits shall be removed from the stable area as promptly as is possible.

Section 13. Photo Finish Cameras.

- (1) An association shall provide and maintain at the finish line two (2) photo finish cameras for photographing the finish of races. For Quarter Horse races, the photo finish cameras shall be equipped with mirror image to photograph the finish of each race and shall record the running time for each horse to the nearest 1/1000th second.
- (2) One (1) of the photo finish cameras shall be held in reserve. The photo finish photographer shall promptly furnish to the stewards and placing judges the number of prints of finishes requested.
- (3) An association shall maintain a one (1) year file of all photo finishes.

Section 14. Race Replays.

- (1) During a race meeting, an association shall provide and maintain personnel and equipment necessary to record and produce race replays that clearly record each race from start to finish.
- (2) Projection or viewing equipment shall be adequate to permit simultaneous showing of head-on and side-angle views of the running of each race.
- (3)
 - (a) A race replay shall be:
 1. Retained and secured by an association for at least one (1) year; and
 2. Made available to the commission and stewards upon demand.
 - (b) Upon order of the stewards, a visual record of a race that has raised a question, dispute, or controversy shall be filed with the commission.
- (4) Race replays shall be made available:
 - (a) For viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed; and
 - (b) To members of the press.

Section 15. Ambulances.

- (1) An association shall provide and maintain at least one (1) human ambulance and one (1) horse-ambulance whenever horses are permitted to exercise or race.
- (2) An ambulance shall be:
 - (a) Equipped;
 - (b) Manned;
 - (c) Ready for immediate duty; and
 - (d) Located at an entrance to the racing strip.

Section 16.

- (1) Except as provided by subsection (2) of this section, an association shall equip and maintain a first aid facility that is:
 - (a) Equipped with at least two (2) beds; and
 - (b) Attended by a licensed physician and registered nurse during race hours.
- (2) An association shall not be required to maintain a first aid facility, if the association has an ambulance on standby on its premises during racing hours which:
 - (a) Can transport an injured individual to a fully-equipped hospital emergency room in five minutes or less; and
 - (b) Is manned by a certified paramedic and certified emergency medical technician.
- (3) A paramedic provided pursuant to subsection (2) of this section shall be equipped with:
 - (a) Heart monitor and defibrillator;
 - (b) Cellular phone; and
 - (c) Airways intubation equipment.

Section 17. Track Kitchen. An association shall provide a track kitchen within the stable area, maintained in a clean and sanitary manner that complies with applicable statutes,

administrative regulations, codes, or ordinances, at all times horses are stabled on association grounds.

Section 18. Communication System. An association shall install and maintain in good working service a communication system between the stewards' stand and:

- (1) Outriders;
- (2) Pari-mutuel department;
- (3) Starting gate;
- (4) Public address announcer; and
- (5) Clerk of the scales.

Section 19. Fire Prevention.

- (1) An association shall have a fire prevention and suppression program.
- (2) The commission shall not approve the commencement of a race meeting unless, within fifteen (15) days before commencement of the race meeting, the state or local fire marshal:
 - (a) Has inspected the association; and
 - (b) Certified that the association plant and stable area meets fire safety requirements.
- (3) An association shall maintain a firefighting unit of trained personnel that has high-expansion foam fire extinguishers and other equipment required by the local fire inspection authority.
- (4) An association shall prohibit:
 - (a) Smoking in stalls, under shed rows, and in feed rooms;
 - (b) Open fires and oil or gas lamps in the stable area; and
 - (c) Locking of stalls occupied by horses.

Section 20. Association Security.

- (1) An association shall provide and maintain security services, night and day, on and about association grounds.
- (2) An association shall furnish to the stewards a report on any disturbances or disorderly conduct committed by a person on association grounds.
- (3) An association shall exclude from association grounds a person designated to be denied access by order of the commission or stewards.
- (4) An association shall implement security measures to protect a horse on association grounds from being injured by being frightened or tampered with.
- (5) An association shall exclude from the paddock area, race strip, and winner's entrance a person who:
 - (a) Does not have an immediate connection with the horses entered; and
 - (b) Is not a commission member, racing official, or accredited member of the news media.

Section 21. Vendors and Suppliers.

- (1) A vendor shall comply with procedures and requirements established by an association.
- (2) An association shall not attempt to control or monopolize sales to owners, trainers, or stable employees.
- (3) An association shall not grant an exclusive concession to a vendor of feed, racing supplies, or racing services.
- (4) A vendor of horse feeds or medications shall file with the commission veterinarian a list of products that he or she proposes to sell, including a new preparation or medication.
- (5) An association shall not permit the sale of an alcoholic beverage except beer within the stable area.

Section 22. Ejection or Exclusion From Association Grounds.

(1) An association shall for probable cause eject or exclude from association grounds a person:

(a) Believed to be engaged in:

1. A bookmaking activity;
2. Solicitation of bets; or
3. Touting;

(b) Who as a business or for compensation, either directly or indirectly:

1. Accepted anything of value to be wagered, transmitted, or delivered for wager to a pari-mutuel wagering enterprise; or
2. Participated in the transaction; or

(c) Who attempted to use tax exempt admissions credentials not issued to him by the association.

(2) An association shall eject or exclude from its stable area a person who is not:

(a) Licensed to conduct an activity that requires his presence in the stable area;

(b) An accredited member of the news media;

(c) A guest of a licensed owner or trainer accompanied by the owner or trainer; or

(d) Accompanied by, and under the control and supervision of a:

1. Racing official;
2. Association security guard; or
3. Association public relations department representative.

(3)

(a) A report of an ejection or exclusion from association grounds shall be made immediately to the stewards, judges, and commission director of security.

(b) A report shall state the:

1. Name of person ejected or excluded;
2. Reasons for the ejection or exclusion; and
3. Facts relating to the ejection or exclusion.

Section 23. Ownership of Associations. An association shall file with the commission a revised list of persons whose identity is required by 810 KAR 3:010 immediately upon transfer of a beneficial interest or control in the association.

Section 24. Plan of Association Grounds.

(1) An association shall file with the commission maps and plans of association grounds, showing:

(a) Structures;

(b) Piping;

(c) Fire hydrants;

(d) Fixed equipment;

(e) Racing strip, noting elevation as filled, drained, and gapped; and

(f) Composition of track base and cushion.

(2) An association shall file revised maps or plans of association grounds upon any material change.

Section 25. Attendance and Badge List Reports; Tax Exempt Credentials.

(1) An association shall file with the commission a copy of the form required by KRS 137.180 and 138.480, "Race Track Pari-mutuel and Admissions Report," Revenue Form 73A100.

(2) A tax exempt admission credential shall not be transferable.

Section 26. Financial Report. Within sixty (60) days after the close of its fiscal year, an association shall file:

(1) Three (3) copies of its balance sheet; and

(2) A comparison to the prior year.

Section 27. Horseman's Account and Horseman's Bookkeeper.

- (1) An association shall maintain a bank account that shall:
 - (a) Be separate from its other accounts;
 - (b) Be titled "horsemen's account"; and
 - (c) Contain sufficient funds to pay money owing to horsemen for:
 1. Purses;
 2. Stakes;
 3. Rewards;
 4. Claims; and
 5. Deposits.
- (2) Withdrawals from the horsemen's account shall be subject to audit by the commission at any time.
- (3)
 - (a) For all races, purse money shall be available to earners after the result of the race in which the money was earned has been declared official and:
 1. For race dates where all samples are reported by the commission laboratory as passed at the screening level, within twenty-four (24) hours after receipt of the report by the commission; or
 2. For race dates where one (1) or more sample is reported by the commission laboratory as suspicious at the screening level, within twenty-four (24) hours after receipt of the final report by the commission.
 - (b) If a horse is disqualified and an appeal has been filed, purse money shall be available to other participants entitled to purse money in the amount they would have earned had a horse not been disqualified. The purse money to which the disqualified participant would be entitled shall be held in escrow by the association until final adjudication of a dispute over which persons are entitled to money.
- (4)
 - (a) Except for jockey fees, a deduction from purse money shall not be made, unless the deduction has been requested in writing by the:
 1. Person to whom purse money is payable; or
 2. Authorized representative of the person to whom purse money is payable.
 - (b) Whether or not a deduction request is made, at the close of a race meeting, the horsemen's bookkeeper in charge of the horsemen's account shall mail to an owner a duplicate of each record of a deposit, withdrawal, or transfer of funds that affects his racing account.
- (5) The horsemen's bookkeeper in charge of the horsemen's account shall be bonded.

Section 28. Outriders.

- (1) An association shall employ at least two (2) outriders.
- (2) An outrider shall:
 - (a) Escort starters to the post;
 - (b) Assist in the returning of horses to the unsaddling area;
 - (c) Only lead a horse that has demonstrated unruliness; and
 - (d) Assist in the control of a horse that might cause injury to a jockey or others.
- (3) Whenever horses are permitted on the racing strip for exercising or racing, an outrider shall be:
 - (a) Present on the racing strip;
 - (b) Mounted; and
 - (c) Ready to assist in the:
 1. Control of an unruly horse; or
 2. Recapture of a loose horse.

Section 29. Safety Equipment.

(1) A person mounted on a horse or stable pony at a location under the jurisdiction of the commission shall wear a properly secured safety helmet at all times. If requested by a commission official, the person shall provide sufficient evidence that his helmet has a tag, stamp, or similar identifying marker indicating that it meets one of the following safety standards:

- (a) ASTM International Standard, ASTM F1163-04a;
- (b) British Standards, BS EN 1384:1997 or PAS 015:1999; or
- (c) Australian/New Zealand Standard, AS/NZS 3838:2006.

(2) A person mounted on a horse or stable pony on a location under the jurisdiction of the commission, assistant starters, and a person handling a horse in a starting gate shall wear a safety vest at all times. If requested by a commission official, the person shall provide sufficient evidence that his safety vest has a tag, stamp, or similar identifying marker indicating that it meets or exceeds one (1) of the following safety standards:

- (a) British Equestrian Trade Association (BETA):2000 Level 1;
- (b) Euro Norm (EN) 13158:2000 Level 1;
- (c) ASTM International Standard, ASTM F2681-08;
- (d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or
- (e) Australian Racing Board (ARB) Standard 1.1998.

Section 30. Valets.

(1) An association shall employ a number of licensed valets sufficient to attend each rider on a day's racing program.

(2) A valet shall be under the immediate supervision and control of the clerk of scales.

(3) A rider shall not employ a valet or be attended by a person other than the valet assigned to him by the clerk of scales.

(4) A valet shall:

- (a) Be responsible for the care and cleaning up of the apparel and equipment of his assigned rider;
- (b) Ensure his rider has the proper equipment and colors for a race;
- (c) Present the proper equipment and attend the saddling of his rider's mount; and
- (d) Attend the weighing out of his rider.

(5) A valet or other jockey room attendant shall not place a wager, directly or indirectly, on races run while he serves as a valet for himself or another.

(6) An association shall provide uniform attire for all valets that shall be worn whenever they perform their duties within public view.

Section 31. Minimum Purse and Stakes Values.

(1) An association shall not program or run any race for which the purse is less than \$2,000 in cash, without special permission of the commission.

(2) An association shall not program or run a stakes race for which the added value is less than \$10,000 in cash added by the association to stakes fees paid by owners.

(3) The minimum cash amounts paid by the association shall be exclusive of:

- (a) Nomination;
- (b) Eligibility;
- (c) Entrance;
- (d) Starting fees;
- (e) Cash awards;
- (f) Premiums;
- (g) Prizes; or
- (h) Objects of value.

Section 32. Maximum Number of Races. An association shall not program or run more than nine (9) races on a racing day without permission of the commission.

Section 33. Two (2) Year Old Races.

(1) Beginning on March 1 of each year, an association shall program in the conditions book at least four (4) two (2) year old races each week.

(2) Quarter horse race conditions for two-year-olds shall not be offered in the condition book prior to March 1 of that corresponding year.

Section 34.

(1)

(a) Exculpatory clauses. Stall applications, entry forms, condition books, and other agreements between persons or entities licensed by the Kentucky Horse Racing Commission regarding the stabling of horses, the racing of horses, the training of horses, or other activities at tracks owned or operated by licensed associations, and conditions of racing established by licensed associations, shall not contain provisions that absolve or hold harmless a licensee from liability, or limit the liability of a licensee, for loss, loss of use, injury, or damage caused or contributed to by the acts or omissions of any licensee, its agents, or employees, except for:

1. Ordinary negligence that causes or contributes to loss, injury, or damage to horses while on the premises of a licensed association; and

2. Ordinary negligence that causes or contributes to personal injury or property damage, including loss, loss of use, injury, or damage to horses arising from the use of grass fields or gallops owned or controlled by the licensed association.

(b) Subject to the exception in paragraph (a) of this subsection, licensees participating in the stabling of horses, the racing of horses, the training of horses, and related activities at tracks owned or operated by licensed associations shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. A licensee shall not attempt to limit liability of a person or entity for gross negligence or intentional wrongdoing.

(2) Constructive notice to and consent of licensees. Persons licensed by the Kentucky Horse Racing Commission shall be deemed, as a condition of licensure, to have notice of and to have consented to exculpatory provisions, which comply with the limitations set forth in this administrative regulation, included in agreements between licensees and in conditions of racing established by a licensed association. Exculpatory provisions that exceed the limitations set forth in this administrative regulation shall be void and unenforceable in their entirety.

(3) Model provision. The following provision shall be deemed to comply with the limitations set forth in this administrative regulation: All Kentucky Horse Racing Commission licensees, including but not limited to the host association, owners, trainers, jockeys, and grooms ("licensees"), participating in stabling, racing, training, and related activities at (name of licensed association) recognize that hazards and risks inherent in these activities may cause the injury or death of horses. Therefore, in consideration of participating in stabling, racing, training, and related activities at (name of licensed association), all licensees assume the risks of, and release, hold harmless, and covenant not to sue other participating licensees for:

(a) Ordinary negligence that causes or contributes to loss, loss of use, injury, or damage to horses while on the premises of (name of licensed association); and

(b) Ordinary negligence that causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury, or damage to horses arising from the use of grass fields or gallops owned or controlled by (name of licensed association), whether arising from alleged acts or omissions of a licensee, its agents, or employees, the condition of the premises of (name of licensed association), or any

other cause. Except as provided above, all licensees participating in racing, training, and related activities at (name of licensed association) shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law.

JONATHAN RABINOWITZ, Chairman
RAY PERRY, Secretary

APPROVED BY AGENCY: October 12, 2023

FILED WITH LRC: October 13, 2023 at 9:05 a.m.

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.