

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

809 KAR 10:002. Standards for sports wagering.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(16), 230.361, 230.808

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...." KRS 230.808 lists the categories of sporting events that may be wagered upon and permits a sports governing body to submit a request to the commission to restrict, limit, or exclude a type, form, or category of sports wagering. This administrative regulation establishes standards for sports wagering in Kentucky, including authorized and prohibited sporting events and types of wagers and data sources for sports wagering.

Section 1. Authorized and Prohibited Sporting Events and Types of Wagers.

(1) Sporting events that may be wagered upon include those listed in KRS 230.808.

(2) Of those events listed in KRS 230.808, only those categories of sporting events and their types of wager authorized by the racing commission in accordance with Section 2 of this administrative regulation and posted on the racing commission's Web site may be offered for sports wagering by a licensee.

(3) Notwithstanding any contrary provisions of this regulation, any wager which complies with the following criteria and does not involve any criteria listed in subsection (4) of this section is generally approved and does not need specific approval under Section 2 of this administrative regulation prior to being offered by a licensee:

(a) It is decided based on an outcome or outcomes determined because of a sporting event or sporting events sanctioned by a sports governing body or equivalent that is approved by the racing commission;

(b) It is based on statistical results that can be verified by a data source, box score, aggregation of box scores, or other statistical analysis;

(c) It is based on the performance of a single or group of rostered or otherwise registered participants; and

(d) It is based on the result of an outcome on the field of play.

(4) A licensee shall not offer sports wagering on:

(a) Any electronic sporting event that:

1. Is not sanctioned by an approved sports governing body or equivalent; or

2. Has not been approved by the racing commission pursuant to the regulations established in Section 2 of this administrative regulation;

(b) Any occurrence of injuries or penalties;

(c) Any officiating decisions;

(d) Any disciplinary proceedings against a participant in a sporting event;

(e) Any amateur youth sporting events in which the majority of participants are under the age of eighteen (18) or are competing on behalf of or under the sponsorship of one or more public or private preschools or public or private elementary, middle or junior high, or high schools;

(f) Any sporting event or type of wager in which the outcome has already been determined and is publicly known;

(g) Any dog or horse races; and

(h) Any categories of sporting event or type of wager until the sporting event or type of wager has been approved by the racing commission in accordance with Section 2 of this administrative regulation.

Section 2. Petition for a Category of Sporting Event or Type of Wager. Except as provided in Section 1(3) of this administrative regulation, all types of wagers and categories of sporting events shall be reviewed and approved by the racing commission before a Licensee is permitted to offer the wager to the public. A licensee may petition the racing commission for approval of a new category of sporting event or type of wager.

(1) A proposed new sporting event or type of wager may be a variation of an authorized sporting event or type of wager, a composite of authorized sporting events or types of wager, or a new sporting event or type of wager.

(2) A petition for a proposed new sporting event or type of wager shall be in writing and shall include the following information or material as requested by the racing commission:

(a) The name(s) and address(es) of petitioner(s);

(b) The name of the sporting event or type of wager;

(c) Whether the sporting event or type of wager is a variation of an authorized sporting event or type of wager, a composite of authorized sporting events or types of wager, or a new sporting event or type of wager;

(d) The name of the licensee serving as a sponsor of the new sporting event or type of wager variation petition;

(e) A complete and detailed description of the sporting event or type of wager for which approval is sought, including:

1. A summary of the sporting event or type of wager and the manner in which sports wagers would be placed and winning sports wagers would be determined;

2. A draft of the proposed wagering rules, which includes a description of any technology that would be used to offer the sporting event or type of wager;

3. Any rules or voting procedures related to the sporting event or type of wager; and

4. Written attestation that the sporting event or type of wager meets the requirements of subsection (3) of this section;

(f) For the approval of an electronic sporting event, complete information about:

1. The proposed location(s) of the electronic sporting event;

2. The video game used for the electronic sporting event, including the key role of game publishers as creators of the underlying video game;

3. The electronic sporting event operator, whether the electronic sporting event operator is approved to host events by the video game publisher, and whether the electronic sporting event operator has any affiliation with the video game publisher; and

4. The manner in which the electronic sporting event is conducted by the electronic sporting event operator, including electronic sporting event rules; and

5. As required by the commission, certification from a third party, such as an electronic sporting event operator or game publisher certifies that the electronic sporting event meets all event integrity requirements of the racing commission;

(g) The name of the sports governing body or equivalent; and

(h) A description of the licensee's policies and procedures regarding event integrity.

(3) The type of wager being requested shall meet the following criteria before the request may be approved:

(a) The outcome can be verified;

(b) The outcome can be generated by a reliable and independent process;

(c) The sporting event generating the outcome is conducted in a manner that ensures sufficient integrity monitoring controls exist so the outcome can be trusted;

- (d) The outcome is not likely to be affected by any sports wager placed; and
 - (e) The sporting event is conducted in conformity with applicable laws.
- (4) The racing commission shall approve types of wagers and categories of sporting events in a reasonable time frame. The racing commission will consider the request, all provided materials and any relevant input from the sports governing body or equivalent, or the conductor of the sporting event, prior to authorizing a sporting event or type of wager.
- (5) The racing commission may require an appropriate test or experimental period before granting final approval to a sporting event or type of wager. The racing commission may subject any technology that would be used to offer a sporting event or type of wager to such testing, investigation, and approval.
- (6) The racing commission may grant, deny, limit, restrict, or condition a request made pursuant to this procedure for reasonable cause, in order to ensure the integrity of sports wagering in the Commonwealth. The racing commission may issue an order revoking, suspending, or modifying any approval of a sporting event or type of wager granted under this procedure for reasonable cause.
- (7) The racing commission shall notify all licensees of any additions, deletions, or changes regarding authorized sporting events and types of wager. Once a particular category of sporting event or type of wager is approved for its first use, it may be used on multiple events without further approval. The racing commission may issue general approval for licensees to offer wagers on enumerated categories of sporting events and types of wagers.
- (8) The racing commission reserves the right to prohibit the acceptance of any sports wagers and may order the cancellation of sports wagers and require refunds on any sporting event or type of wager for which wagering would be contrary to the public policies of the Commonwealth.
- (9) If it is determined that a Licensee has offered an unauthorized or prohibited sporting event or type of wager, the licensee shall immediately cancel and refund all sports wagers associated with the unauthorized or prohibited sporting event or type of wager. The licensee shall notify the racing commission promptly after cancelling and refunding the sports wagers. This notice shall include, without limitation, which sports wagers were cancelled or refunded and the reasons for the cancellations or refund.
- (10) The racing commission may use any information it considers appropriate, such as information received from a sports governing body or equivalent, to determine whether to authorize or prohibit wagering on a particular sporting event or type of wager, consistent with industry standards.
- (11) The racing commission may restrict, limit, or exclude a certain type, form, or category of sports wagering if the racing commission determines that the restriction, limitation, or exclusion is necessary to ensure the integrity of the licensee.

Section 3. Limitations on Certain Sports Wagering for Good Cause. A sports governing body may submit a request to the racing commission to restrict, limit, or exclude a certain type, form, or category of sports wagering pursuant to KRS 230.808.

- (1) The sports governing body shall provide the racing commission with notice of a request to restrict, limit, or exclude a certain type, form, or category of sports wagering, which shall contain information required by the racing commission, including:
- (a) The identity of the sports governing body and contact information for at least one specific individual who will be the primary point of contact for questions related to the request;
 - (b) A description of the sports wagering information, event, or wager type that is the subject of the request; and

(c) Information explaining why granting the request is necessary to protect the integrity of the event, or public confidence in the integrity of the event, that is the subject of the request. This may include information regarding any credible threat to the integrity of the event that is beyond the control of the sports governing body to preemptively remedy or mitigate.

(2) The request shall be sent to the racing commission at least ten (10) calendar days before the particular sporting event. At any time, however, a sports governing body shall report information to the racing commission if it involves allegations of prohibited activity, such as match-fixing, the manipulation of an event, or misuse of inside information.

(3) The racing commission shall request comment from licensees on all requests made under subsection (1) of this section. The request for comment shall include the date by which written comments shall be submitted to the racing commission.

(4) The racing commission shall grant or deny the request pursuant to the criteria established in KRS 230.808.

(5) The racing commission may provisionally grant the request pursuant to the criteria established in KRS 230.808.

(6) The racing commission may reconsider its decision if there is a material change in the circumstances related to the original request.

Section 4. Data Sources for Sports Wagering. A licensee shall report to the racing commission in its sports wagering license application the data source(s) that it uses to resolve sports wagers. The racing commission may disapprove of a data source for any reason in the best interest of sports wagering integrity.

(1) The data source and corresponding data shall be complete, accurate, reliable, timely, and available.

(2) The data source shall be appropriate to settle the category of sporting events and types of wagers for which it is used.

Section 5. Wagering Rules. The licensee shall adopt comprehensive wagering rules, which shall be approved by the racing commission.

(1) The wagering rules shall be conspicuously displayed on the licensee's Web site or mobile application and within the race and sports book location, and copies shall be made readily available to individuals and patrons. Licensees may elect to display copies of comprehensive wagering rules solely in electronic form on sports wagering kiosks, provided such licensees make hard copies of the wagering rules readily available to individuals and patrons or display commission-approved short-form house rules in race and sports book locations.

(2) The wagering rules shall comply with GLI-33 Standards and shall specify the amount to be paid on winning wagers and the effect of schedule changes.

(3) The licensee shall not implement any changes or modifications of the practices, procedures, or representations upon which the approval of wagering rules was based without the prior approval of the racing commission. Failure by a licensee to act in accordance with its approved wagering rules may result in disciplinary action.

Section 6. Tournaments, Contests, and Pools.

(1) No sports wagering tournament, contest, or pool shall be conducted unless the Licensee, before the first time a tournament, contest, or pool type is offered, files written notice with the racing commission of its intent to offer that tournament, contest, or pool type and obtains approval from the racing commission. The licensee may file a master list with the racing commission to satisfy this requirement.

(2) The request shall provide a detailed description of the tournament, contest, or pool type and shall include the rules of the tournament, contest, or pool, the requirements for

entry, the entry fees, the rake, and potential payouts. The request shall also indicate whether the proposed type involves a shared liquidity pool available to patrons in Kentucky and other jurisdictions with the prize pool being comprised of entry fees collected from patrons in multiple jurisdictions.

(3) The request shall be submitted to the commission in writing via electronic mail. All such requests shall be submitted at least ten (10) business days prior to start date of the tournament, contest, or pool.

(4) Once a licensee receives approval to offer a tournament, contest, or pool type the licensee shall not be required to seek additional approvals from the racing commission for each subsequent type that has only minor variations, such as to the size, number of entries permitted, entry fee, rake, or prize structure.

(5) Each licensee shall maintain a record of each tournament, contest, or pool it offers for five (5) years. These records shall include the following:

- (a) Name or identification of the tournament, contest, or pool;
- (b) The date and time the tournament, contest, or pool occurred or will occur (if known);
- (c) Sporting events and types of wager;
- (d) Rules concerning tournament, contest, or pool play and participation; and
- (e) For each patron:
 1. Unique patron identification;
 2. Amount of entry fee collected, including any promotional or bonus credits, and the date collected;
 3. Patron scorings or rankings; and
 4. Amount of payouts paid, including any promotional or bonus credits, and the date paid;
- (f) Total amount of entry fees collected, including any promotional or bonus credits;
- (g) Total amount of payouts paid to patrons, including any promotional or bonus credits;
- (h) Total rake, takeout, or fees collected;
- (i) Funding source amount or amounts comprising the prize pool, such as buy-ins, re-buys, or add-ons;
- (j) Prize structure on payout;
- (k) Methodology for determining winner or winners; and
- (l) The current status of the tournament, contest, or pool, such as whether the event is in-progress, complete, interrupted, cancelled.

(6) The licensee shall be responsible for the rake. At no time shall the calculation resulting from a rake or rake adjustment be negative.

(7) For a contest, tournament, or pool which utilizes shared liquidity available to patrons in Kentucky and other jurisdictions, the rake rate shall be the same for all jurisdictions participating.

Section 7. Acceptance of Wagers.

- (1) A licensee shall comply with GLI-33 Standards when accepting wagers.
- (2) A licensee shall not set lines or odds or offer wagering propositions designed for the purposes of ensuring that a patron will win a sports wager or a series of sports wagers, unless the lines, odds, or wagering propositions are offered in connection with a promotion or bonus conducted in accordance with Section 9 of this administrative regulation.
- (3) A Licensee shall not accept a sports wager on a sporting event unless a wagering proposition is posted by electronic or manual means.
- (4) Sports wagers may only be made by patrons using forms of payment approved by the racing commission including the following:

- (a) Cash;
 - (b) Cash equivalents converted to cash;
 - (c) Credit or debit cards;
 - (d) Electronic funds transfers (EFTs) including automated clearing house and other electronic methods;
 - (e) Promotional or bonus credit;
 - (f) Winning sports wagering tickets or vouchers; and
 - (g) Funds within a sports wagering account.
- (5) The licensee shall debit the amount wagered by a patron from their sports wagering account. Wagers shall not be accepted in an amount in excess of a sports wagering account balance.
- (6) No licensee shall accept a sports wager from a person on the sports wagering account of or for any other person.
- (7) The licensee shall operate and communicate with the sports wagering system in a way that does not provide or facilitate a wagering advantage based on access to information and processing of mobile sports wagers by account holders relative to patrons who wager at a licensed premises.

Section 8. Cancelled or Voided Wagers. Wagers shall not be cancelled or voided without prior approval of the commission, unless the wagers are cancelled or voided by an authorized supervisory employee of the licensee, in accordance with GLI-33 standards and this section.

(1) A licensee shall cancel or void a sports wager under the following circumstances. The licensee need not obtain prior authorization of the racing commission to cancel or void the sports wager under these circumstances:

(a) Any sports wager where after a patron has placed a sports wager, the sporting event is cancelled, postponed or rescheduled to a different date prior to completion of the sporting event;

1. In the case of a sports wager on a portion of a sporting event, that wager shall be valid when the event is canceled, postponed, or rescheduled if the outcome of the affected portion was determined prior to the cancellation, postponement or rescheduling; or

2. A licensee may establish a timeframe in which an event may be rescheduled or postponed without canceling the sports wager. This timeframe shall be tied to specific sporting events, subject to the approval of the racing commission, and documented in the internal controls;

(b) A change in the venue where a sporting event was scheduled to be held occurs after a patron has placed a sports wager and the licensee cancels or voids the sports wager prior to the commencement of the sporting event;

(c) Any sports wager when an individual participant fails to participate in a sporting event and the outcome of the wager is solely based upon that individual participant's performance;

(d) Any sports wager received for an act, or set of acts, to be performed during a sporting event when such act or acts does not occur and the ability to wager on the non-occurrence of the event was not offered;

(e) Any wager received on whether a team will qualify to participate in post-season competitions when the number of teams allowed to participate in the post-season changes after a patron has placed a wager;

(f) Changes to rules are made by a sports governing body or equivalent regarding the format or number of participants scheduled to participate in a defined phase of a sporting event or that particular phase is not played at all;

- (g) Where the licensee has reasonable basis to believe there was an obvious error in the placement or acceptance of the wager, including:
1. The wager was placed with incorrect odds;
 2. Human error in the placement of the wager; or
 3. Any other obvious error specifically defined in the licensee's internal controls.
- (h) When a patron requests a sports wager be cancelled or voided prior to the commencement of the sporting event due to an error in communicating the type, amount or parameters of the sports wager; or
- (i) When authorized or ordered by the racing commission pursuant to this section.
- (2) A licensee may cancel or void a sports wager for a material change in circumstances for a given sporting event or type of wager occurs, provided:
- (a) The racing commission approves the material change;
 - (b) The licensee documents the material change in its internal controls; and
 - (c) The licensee displays what constitutes a material change to a patron at the time of placement of the sports wager;
- (3) For all circumstances that are not established in subsection (1), a licensee may request the racing commission authorize the cancellation or voiding of all sports wagers of a specific type, kind, or subject. A licensee shall submit its request to cancel or void the sports wager in writing, and such request shall contain the following:
- (a) A description of the type, kind, or subject of sports wager the licensee is requesting to cancel or void;
 - (b) A description of any facts relevant to the request; and
 - (c) An explanation why cancelling or voiding the sports wager is in the best interests of the Commonwealth or ensures the integrity of the sports wagering industry.
- (4) The racing commission shall issue a written order granting or denying the request to cancel or void the sports wager. In determining whether to grant or deny the request, the racing commission shall consider at least the following factors:
- (a) Whether the alleged facts implicate the integrity of the sporting event subject to the wager or the sports wagering industry;
 - (b) Whether the alleged facts implicate possible illegal activity relating to the sporting event or the sports wagering industry;
 - (c) Whether allowing the wager would be unfair to patrons; or
 - (d) Whether allowing the wager is contrary to public policy.
- (5) No sports wager subject to the request to cancel or void shall be redeemed, cancelled, or voided, until the racing commission or its designee issues an order granting the request to cancel.
- (6) If the racing commission or its designee grants the request to cancel or void, the licensee shall make commercially and technologically reasonable efforts to notify patrons of the cancellation or voiding of the sports wager.
- (7) The racing commission or its designee has discretion to order all licensees to cancel or void all wagers on a specific sporting event or wagers of a specific type or kind on a specific sporting event. In exercising its discretion, the racing commission shall apply the same factors described in subsection (1).
- (8) A patron may request the racing commission or its designee review any sports wager declared cancelled or voided by a licensee. If the racing commission or its designee concludes the cancelling or voiding of the sports wager did not conform with this regulation, the racing commission or its designee may order the licensee to honor the sports wager.
- (9) A sports wager shall not be declared canceled or voided without the approval of an authorized supervisory employee of the licensee pursuant to the licensee's internal controls, unless the racing commission or its designee has issued an order requiring the sports wager to be canceled or voided.

(10) If a sports wager is declared canceled or voided, the sports wager shall be refunded to the patron and that amount shall be deducted from the adjusted gross revenue.

Section 9. Promotional or Bonus Wagering. A licensee may conduct sports wagering promotions or bonuses in accordance with this section:

(1) Procedures for the issuance, acceptance, and tracking of promotions or bonuses shall be defined in the licensee's internal controls.

(2) A licensee shall maintain a record of all promotions or bonuses related to sports wagering to facilitate the racing commission's tracking of promotional or bonus activity, which shall address the following:

- (a) Unique ID for each promotion or bonus;
- (b) The date and time the promotion or bonus was or is scheduled to be available;
- (c) Current balance for promotional or bonus awards;
- (d) Total amount of promotional or bonus awards issued;
- (e) Total amount of promotional or bonus awards redeemed;
- (f) Total amount of promotional or bonus awards expired;
- (g) Total amount of promotional or bonus award adjustments;
- (h) The current status of the promotion or bonus (active, disabled, decommissioned, etc.); and
- (i) The date and time the promotion or bonus was or is scheduled to be decommissioned.

(3) All promotion or bonus rules shall be full, accurate, concise, transparent, and shall not contain misleading information. Promotion or bonus rules shall be readily accessible by the patron and provide unambiguous notice of the:

- (a) Date and time the promotion or bonus is active and expires;
- (b) Rules of play;
- (c) Nature and value of prizes or awards;
- (d) Eligibility restrictions or limitations;
- (e) Wagering and redemption requirements, which shall include a description of any limitations on such;
- (f) How the patron is notified when they have received an award;
- (g) Order in which funds are used for wagers;
- (h) Eligible events or wagers; and
- (i) Cancellation requirements.

(4) Promotions or bonuses shall not be described as free or risk-free if those promotions or bonuses require the patron to incur any loss or risk the patron's own money to use or withdraw winnings from the free wager;

(5) A licensee shall provide a clear and conspicuous method for a patron to cancel their participation in a promotion or bonus that utilizes restricted wagering credits that cannot be cashed out until a wagering requirement or other restriction associated with the credits is met:

- (a) Upon request for cancellation, the licensee shall inform the patron of the amount of unrestricted funds that will be returned upon cancellation and the value of restricted wagering credits that will be removed from the sports wagering account; and
- (b) If a patron elects to proceed with cancellation, unrestricted funds remaining in a patron's sports wagering account shall be returned according to the rules of a promotion or bonus.

(6) Once a patron has met the terms of a promotion or bonus, a licensee shall not limit winnings earned while participating in the promotion or bonus.

*JENNIFER WOLSING, General Counsel
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RAY A. PERRY, Secretary

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