

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amended at ARRS Committee)

809 KAR 10:007. Responsible gaming and advertising.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260(15), (16)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(15) requires the commission to "promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers." KRS 230.260(16) requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." This administrative regulation establishes a self-exclusion list and responsible gaming programs for sports wagering participants.

Section 1. Self-Exclusion List.

- (1) Each operator licensee shall develop a commission-approved self-exclusion list for individuals who wish to be temporarily or permanently excluded from gambling in the Commonwealth for any reason, such as self-identification as problem or compulsive gamblers.
- (2) The commission shall consider at least the factors established in paragraphs (a) through (d) of this subsection in approving a self-exclusion list.
 - (a) The list shall include the names and other identifying information of the individuals who have self-excluded from sports wagering at a licensed premises and online via a licensee-specific Web site, mobile application, or by phone.
 - (b) Each licensee shall display a notice to the public of the existence of the self-exclusion list and the method or methods individuals may use to self-identify at the licensed premises, online, or by phone.
 - (c) The notice shall be displayed at public entrances to the race and sports book location and on the licensee's Web site or mobile application.
 - (d) The notice shall include information about the consequences of self-exclusion.
- (3) The notice and its placement locations shall be approved by the racing commission. In approving the notice, the commission shall consider the notice's visibility and any other relevant factors.
- (4) Each licensee shall collect self-exclusion information from individuals who self-identify as problem or compulsive gamblers.
- (5) The self-exclusion information collected shall include the individual's name, address, date of birth, and other identifying information as established by the racing commission in accordance with KRS 230.290.
- (6) The licensee shall provide any newly-collected self-exclusion information to the racing commission on an as-needed basis, but at least weekly through the online portal.
- (7) The commission shall compile and maintain a comprehensive list of all voluntarily self-excluded persons.
- (8) The comprehensive list shall include the self-exclusion information provided by each licensee.
- (9) The comprehensive list shall be provided to all licensees and updated on an as-needed basis, but at least monthly.
- (10) Pursuant to KRS 61.878(1)(a) and KRS 230.260, information collected under this Section shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 through 61.884.
- (11) Self-exclusion information shall be kept confidential and shall not be disclosed except as necessary to enforce KAR Titles 809 and 810 or as required by law.

(12) Each licensee shall establish its own self-exclusion policy. Each policy shall be approved by the racing commission to ensure the best interests of sports wagering and compliance with KRS 230.260.

(13) The policy may cover how the licensee chooses to exclude individuals on the self-exclusion list. The policy may include identification and verification, forfeiture of prizes by voluntarily excluded persons, security personnel, technology, employee training, contractual obligations, or collaboration with other licensees.

(14) Each licensee shall review its self-exclusion policy at least once every two (2) years and amend it as necessary to ensure:

(a) Compliance with KAR Titles 809 and 810;and

(b) The policy's effectiveness in achieving the purpose for which it is established.

Section 2. Responsible Gaming Program.

(1) A licensee shall develop and maintain a responsible gaming program that shall be approved by the racing commission pursuant to this section. The responsible gaming program shall require:

(a) Posting in a conspicuous place on the licensee's Web site or mobile application and in every licensed premises a sign that bears a toll-free number for a commission-approved organization that provides assistance to problem or compulsive gamblers;

(b) Providing commission-approved disclosures on the licensee's Web site or mobile application and informational leaflets or other similar materials at the licensed premises containing information on the dangers associated with problem gambling;

(c) Providing patrons expressing concern with a gambling problem with information on commission-approved organizations that provide assistance to problem or compulsive gamblers;

(d) Providing notification that underage gambling is a criminal offense and that anyone who facilitates an underage person to place a sports wager has committed a criminal offense; and

(e) Ensuring that any request by a patron who wishes to self-exclude from sports wagering shall be honored by the licensee.

(2) In approving the organizations and disclosures established in subsection (1) of this section, the commission shall consider industry standards for responsible gambling and any other relevant factors.

(3) At least every (5) years, the licensee shall ensure that the licensee's responsible gaming program utilized in Kentucky shall be independently reviewed by a third party and performed by a third party approved by the racing commission based on experience with auditing, industry standards, and responsible gaming. The racing commission shall require the licensee to pay for the independent review.

Section 3. Advertising and Marketing.

(1) A licensee shall not allow, conduct, or participate in any false or misleading advertising or marketing concerning the licensee's sports wagering operations.

(2) A licensee shall only make representations concerning winnings that are accurate, not misleading, and capable of substantiation at the time of the representation. An advertisement shall be misleading if the advertisement makes representations about average winnings without equally prominently representing the average net winnings of all patrons.

(3) A licensee shall not advertise or market at elementary, middle, or high school activities. The prohibition in this subsection shall exclude an advertisement distributed via mass media, such as television, radio, print media, or the Internet, if the advertisement is not specifically directed toward (but could be incidentally received by) elementary, middle, or high schools.

FILED WITH LRC: December 11, 2023

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.