

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)

810 KAR 5:070. Running of the race.

RELATES TO: KRS Chapter 13B, 230.215, 230.260(1), 230.280, 230.290(2), (3), 230.300, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.320(1), 230.361(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.320(1) authorizes the commission to promulgate administrative regulations setting out the conditions under which licenses may be denied, revoked, or suspended. KRS 230.361(1) requires the commission to promulgate regulations concerning the pari-mutuel wagering system. This administrative regulation establishes track rules and requirements concerning proper racing conduct, the starting and timing of races, placing, money distribution, post time and postponements, and protests.

Section 1. Driving Violations. A leading horse shall be entitled to any part of the track. After selecting a position in the home stretch, a driver of a horse shall not:

- (1) Change either to the right or left during any part of the race if another horse is so near the driver that in altering positions, the driver:
 - (a) Compels the horse behind to shorten strides; or
 - (b) Causes the driver of any other horse to pull the horse out of his stride;
- (2) Jostle, strike, hook wheels, or interfere with another horse or driver;
- (3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers;
- (4) Swerve in and out or pull up quickly;
- (5) Crowd a horse or driver by "putting a wheel under him";
- (6) "Carry a horse out" or "sit down in front of him", take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses, or do any other act that constitutes "helping";
- (7) Allow a horse to pass inside needlessly or otherwise help another horse to improve its position in the race;
- (8) Lay off a normal pace and leave a hole if it is well within the horse's capacity to keep the hole closed;
- (9) Commit an act that impedes the progress of another horse or causes the horse to "break";
- (10) Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in a manner that interferes with another horse or causes the horse to change course or take back;
- (11) Drive in a careless or reckless manner or fail to maintain reasonable control of the horse at all times during the race;
- (12) Whip under the arch of the sulky;
- (13) Cross the inside limits of the course;
- (14) Fail to set or maintain a pace comparable to the class being raced, including traveling an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race; or
- (15) Kick a horse. Removal of a foot from the stirrups in and of itself shall not constitute the act of kicking.

Section 2. Leaving the Course.

(1) A horse or a horse's sulky that leaves the course by brushing, running over, or going inside of a pylon demarcation shall have violated this administrative regulation and may be penalized by a disqualification if in the opinion of the judges:

(a) The action results in the horse gaining an unfair advantage over other horses in the race;

(b) The action helps the horse improve its position in the race; or

(c) The driver goes inside the pylons and does not immediately correct position.

(2) A horse using the inside to pass shall have complete clearance of the pylons.

(3) A driver striking pylons but not gaining an unfair advantage ~~may~~^{shall} be cited for a violation of this administrative regulation unless he was forced to strike the pylons by circumstances beyond his control.

(4) If an act of interference causes a horse or part of a horse's sulky to be in violation of this administrative regulation and the horse is disqualified, the offending horse shall be placed behind the horse with which it interfered.

Section 3. Penalties.

(1) A horse that violates Section 1 or 2 of this administrative regulation shall:

(a) Be placed back one (1) or more positions in the heat or dash behind the horse with which the horse interfered;

(b) Be disqualified from receiving any winnings, if a horse is prevented from finishing as a result of the violation; or

(c) Be placed last among finishing horses, if a horse which the violating horse interfered with fails to finish the race due to a separate and unrelated incident.

(2) If a violation established in Section 1 or 2 of this administrative regulation is committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back, if the judges determine that the violation may have affected the finish of the race. Otherwise, penalties shall be applied individually to the drivers of any entry.

Section 4. Complaints, Reports of Interference.

(1) Complaints.

(a) A complaint by a driver relating to driving or other misconduct during a heat shall be made at the termination of the heat, unless the driver is prevented from doing so by an accident or injury.

(b) A driver desiring to enter a claim of foul or other complaint of violation of the rules shall, before dismounting, indicate to the judges the driver's intention to enter a claim or complaint, and immediately upon dismounting, the driver shall proceed to the telephone or judges' stand where the claim, objection, or complaint shall be immediately entered.

(c) The judges shall not cause the official sign to be displayed until the claim, objection, or complaint has been entered and considered.

(2) Report of interference. A driver shall report to the designated official any interference to himself or herself or to the driver's horse by another horse or driver during a race.

Section 5. Unsatisfactory Drive; Fraud.

(1) A heat in a race shall be fairly contested by each horse in the race, and each horse shall be driven to the finish.

(2) A horse shall not be driven:

(a) With design to prevent the horse from winning a heat or dash which the horse was evidently able to win;

(b) In an inconsistent manner with the intent to improperly manipulate the outcome of a race; or

(c) To perpetrate or to aid in a fraud.

(3) The judges shall substitute a competent and reliable driver at any time prior to the start of the heat or race if the judges have reason to doubt the competence or reliability of the original driver.

Section 6. Removal and Substitution of Driver. A driver may be removed and another driver substituted after the positions have been assigned in a race if, in the opinion of the judges, a driver:

- (1) Is unfit or incompetent to drive;
- (2) Refuses to comply with the directions of the judges; or
- (3) Is reckless in his or her conduct and endangers the safety of horses or other drivers in the race.

Section 7. Failure to Finish. If, for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled "did not finish."

Section 8. Disruptive Conduct.

- (1) A driver shall not engage in disruptive or distracting, improper conduct during a race.
- (2) A driver may remove a foot from the stirrup temporarily for the purpose of pulling earplugs.

Section 9. Whipping.

- (1) A driver may have a whip that does not exceed four (4) feet with a snapper not longer than six (6) inches.
- (2) Except for the ordinary whip or crop, a person shall not use any goading device, chain or mechanical device, or appliance upon a horse in any race, training exercise, or while on association grounds.
- (3)
 - (a) A whip or crop shall not be used in a brutal, excessive, or indiscriminate manner during a race, training exercise, or while on association grounds.
 - (b) A driver shall use a whip only in the conventional manner, by holding the handle and whipping the horse only above the shafts with wrist and elbow movement only. Full swings or going behind the head is prohibited.
 - (c) Welts, cuts, or whip marks on a horse resulting from whipping shall constitute a prima facie violation of this section.
 - (d) A driver shall not:
 1. Whip a horse under the arch or shafts of the sulky;
 2. Kick a horse;
 3. Punch a horse;
 4. Jab a horse;
 5. Use the whip so as to interfere with or cause disturbance to any other horse or driver in a race;
 6. Whip a horse after a race; or
 7. Whip a horse that is exhausted or no longer in contention to win the race.
- (4) A driver shall keep a line in each hand and both hands shall stay in front of the body of the driver from the start of the race until the finish of the race. The left line shall be held in the left hand and the right line shall be held in the right hand.

Section 10. Hopples.

- (1) A horse shall not wear hopples in a race unless it has qualified in hopples.
- (2) Having so started, the horse shall continue to wear them to the finish of the race.
- (3) A person shall not remove or alter a horse's hopples during a race, or between races, for the purpose of fraud.
- (4) A horse habitually wearing hopples shall not start in a race without them unless:

- (a) The horse performs satisfactorily in a qualifying race; or
- (b) The presiding judge excuses the horse from performing in a qualifying race.
- (5) A horse habitually racing free-legged shall not wear hobbles in a race unless:
 - (a) The horse performs satisfactorily in a qualifying race; or
 - (b) The presiding judge excuses the horse from performing in a qualifying race.
- (6) A horse shall not wear a head pole protruding beyond its nose.

Section 11. Breaking.

- (1) If a horse breaks from its gait in trotting or pacing, the driver shall at once, if clearance exists, take the horse to the outside and pull it to its gait.
- (2) A driver shall not:
 - (a) Fail to properly attempt to pull the horse to its gait;
 - (b) Fail to take to the outside or inside if clearance exists;
 - (c) Fail to lose ground by the break; or
 - (d) Fail to prevent extended break.
- (3) If there has been no failure on the part of the driver in complying with subsection (2) of this section, the horse shall not be set back unless a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish.
- (4) A driver shall not allow a horse to break for the purpose of fraudulently losing a heat.
- (5) If a horse or driver's actions cause another horse to be off-stride at the wire, the offending horse shall be placed behind the horse with whom it interfered after all other placements have been made.
- (6) A horse making a break, which causes interference with other contesting horses, shall be placed behind all offended horses.
- (7) The judges shall set a horse back one (1) or more places if this section is violated.

Section 12. Breaks. One (1) of the judges shall call out every break made, and the clerk shall at once note the break and its character in writing.

Section 13. Time Between Heats and Races. The time between separate heats of a single race shall be no less than forty (40) minutes. A heat shall not be called after sunset if the track is not lighted for night racing. The time between races shall not exceed thirty (30) minutes.

Section 14. Accidents.

- (1) If any horse in the current program falls, runs uncontrollably on the track, or is involved in an accident after starting to warm up, that horse shall be permitted to start only after examination and approval by the commission veterinarian.
- (2) If an accident occurs, the judges shall allow adequate time in between posts to clear the track. A driver involved in an accident shall be cleared by an emergency medical technician or paramedic before resuming driving engagements.

Section 15. Sulkies.

- (1) A driver shall be seated in his sulky at the finish of the race or the horse shall be placed as not finishing.
- (2) The owner and trainer shall provide every sulky used in a race with uncolored or colorless wheel discs on the inside and outside of the wheel of a type approved by the commission. If necessary, the presiding judge may order the use of mud guards to be provided by the owners or trainers.
- (3) A sulky shall not be used in a race unless it meets the requirements of the rules and regulations of the United States Trotting Association, 2018, Rule 18, Section 25, "Sulky Performance Standards".

Section 16. Helmets. A protective helmet, securely fastened under the chin and meeting the Snell Memorial Foundation 2000 Standard for Protective Headgear for Use in Harness

Racing, shall be worn at all times on the premises of an association while:

- (1) Racing, parading, or warming up a horse prior to racing; or
- (2) Jogging, training, or exercising a horse at any time.

Section 17. Safety Vests. A safety vest shall be worn while racing, parading, or warming up a horse prior to racing.

Section 18. A licensee shall not:

- (1) Refuse to comply with an order or ruling of a member or employee of the commission, a racing official, or judge;
- (2) Interfere with the performance of the duty of a person specified in subsection (1) of this section;
- (3) Threaten, strike, or harass an owner, trainer, driver or attendant of a horse, or an employee of the association or commission;
- (4) Sexually harass an owner, trainer, driver or attendant of a horse, or an employee of the association or commission; or
- (5) Use force or intimidation against an owner, trainer, driver or attendant of a horse, or an employee of the association or commission.

Section 19.

- (1) A person or association shall not offer any money, benefit, or other inducement to any licensee, employee of the commission, or officer of a racing association to affect the entries to a race, the running of a race, or the outcome of a race.
- (2) Any action prohibited by subsection (1) of this section shall be immediately reported to the judges who shall promptly inform the racing association and the commission.

Section 20.

- (1) An owner, trainer, agent, or driver of a horse shall not threaten or join with others in threatening not to race, or not to declare in, because of the entry of a certain horse or a particular stable, thereby compelling or attempting to compel the racing secretary to reject an eligible entry.
- (2) An action prohibited by subsection (1) of this section shall be immediately reported to the commission.

Section 21. An owner, agent, or driver who has entered a horse shall not demand of the association a bonus of money or other special award or consideration as a condition for starting the horse.

Section 22. Wagering.

- (1) A driver shall not place a wager, or cause a wager to be placed on his or her behalf, or accept a ticket or winnings from a wager on a race, except:
 - (a) A race on the horse he is driving; and
 - (b) Through the owner or trainer of the horse he is driving.
- (2) An owner or trainer who places a wager for his driver shall:
 - (a) Maintain a complete record of the wager; and
 - (b) Make the record available for examination by the judges upon request.

Section 23. Duty to Report Fraudulent Proposal. A person shall immediately report to the presiding judge the details of an offer, promise, or request for a bribe or wager intended to affect the outcome of a race.

Section 24. Denerving.

- (1) A horse that has had a chemical, surgical, or thermal neurectomy at or above the fetlock shall not be permitted to race.
- (2) A horse that has had a palmar or plantar digital neurectomy may be permitted to race if:

- (a) The neurectomy has been reported by the trainer to the stewards; and
 - (b) The horse has been approved for racing by the commission veterinarian prior to being entered to race.
- (3) A horse on which a neurectomy has been performed shall have that fact designated on its registration certificate, virtual certificate, racing permit, and entry in the electronic registration system. Responsibility for ensuring that the neurectomy is correctly noted on the horse's registration certificate, virtual certificate, racing permit, and entry in the electronic registration system shall fall:
- (a) Jointly on the practicing veterinarian who performed the operation and the trainer of the denerved horse if the neurectomy was performed at a location under the commission's jurisdiction; and
 - (b) Solely on the owner of the denerved horse if the neurectomy was performed at a location not under the commission's jurisdiction.
- (4) If a horse races in violation of this section and participates in the purse distribution, a protest shall not be considered unless submitted in writing to the stewards within forty-eight (48) hours after the race.
- (5) If a horse races in violation of this section and is claimed, a protest shall not be considered unless the successful claimant submits a protest in writing within forty-eight (48) hours requesting that the claim be voided. If the claim is voided, the horse shall be returned to the owner who started the horse in the race, and the claim price shall be returned to the claimant.
- (6) A list of all denerved horses shall be made publicly available.

Section 25. Spayed Mares. If a mare has been spayed:

- (1) It shall be noted on the:
 - (a) Registration certificate;
 - (b) Electronic eligibility certificate; and
 - (c) Program when the mare races; and
- (2) The owner shall:
 - (a) Notify the United States Trotting Association that the mare has been spayed; and
 - (b) Return the mare's papers to the United States Trotting Association for correction.

Section 26. Starting Gate.

- (1) Starter's control. The starter shall have control of the horses from the formation of the parade until the word, "go", is given.
- (2) Before or during the parade, the starter shall inform the drivers of the number of scores permitted. After one (1) or two (2) preliminary warming up scores, the starter shall notify the drivers to proceed to the starting gate.
- (3) A horse shall not be brought to the starting gate nearer than one eighth (1/8) of a mile before the start, if the length of the stretch permits.
- (4) On a mile track, a horse shall be brought to the starting gate at the head of the stretch.
- (5) The starting point shall be a point on the inside rail a distance of at least 200 feet from the first turn. The starter shall give the word "go" at the starting point.
- (6) When a speed has been reached in the course of a start there shall not be a decrease except in the case of a recall.
- (7) If a recall is necessary, a light plainly visible to the driver shall be flashed and a recall sounded and, if possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. The starter may close the wings of the gate if an emergency situation arises.
- (8) There shall not be a recall after the word "go" has been given and any horse, regardless of position or accident, shall be considered a starter from the time the horse enters into the starter's control, unless dismissed by the starter or judges pursuant to subsection (10) of this section.

(9) The starter shall endeavor to start all horses in position and on gait, but a recall shall not be sounded for a breaking horse.

(10) The starter may sound a recall only for the following reasons, if the starter believes the integrity of the race may be jeopardized:

- (a) A horse scores ahead of the gate;
- (b) There is interference;
- (c) A horse has broken equipment;
- (d) A horse falls before the word "go" is given;
- (e) There is a malfunction of the starting gate;
- (f) A horse comes to the gate out of position; or
- (g) A circumstance arises that will not allow a fair start, as determined by the starter.

(11) A driver shall not:

- (a) Delay the start;
- (b) Fail to obey the starter's instructions;
- (c) Rush ahead of the inside or outside wing of the gate;
- (d) Come to the starting gate out of position;
- (e) Cross over before reaching the starting point;
- (f) Interfere with another driver during the start; or
- (g) Fail to come up into position.

(12) Unless granted permission by the presiding judge, a person other than the starter, or the starter's driver or operator, shall not be allowed to ride in the starting gate.

(13) Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers shall be prohibited. The volume shall not be higher than necessary to carry the voice of the starter to the drivers.

Section 27. Holding Horses Before Start.

(1) A horse shall not be held on the backstretch for more than three (3) minutes awaiting post time, except if delayed by an emergency or by permission of the judges.

(2) Post time shall be posted no later than two (2) minutes following a previous race with the exception of mutual malfunction.

(3) Horses shall not be held on the track more than ten (10) minutes unless permission is granted by the Presiding Judge.

Section 28. Two (2) Tiers.

(1) If there are two (2) tiers of horses, the withdrawal of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

(2)

(a) If a horse is drawn from any tier, horses on the outside shall fill the vacancy.

(b) If a horse has drawn a post position in the second tier, the driver of the horse may elect to score out behind any horse in the first tier, if the driver does not interfere with another trailing horse or deprive another trailing horse of a drawn position.

Section 29. Starters.

(1) A horse shall be considered to have started when the word, "go", is given by the starter, and a horse shall be required to complete the course except in case of accident, broken equipment, or other circumstance which, in the opinion of the judges, makes it impossible or unsafe to complete the course.

(2) For the purpose of declaring a horse a nonstarter, the judges shall consider the actual starting point on the track regardless if there was a start.

Section 30. Unmanageable Horse.

(1) If, in the opinion of the judges or the starter, a horse is unmanageable or may cause accidents or injury to another horse or to any driver, it shall be scratched. The starter shall

notify the judges of the scratch, who shall then notify the public.

(2) A horse shall be considered unmanageable if it causes two (2) recalls in the same dash or heat, in which case it shall be scratched.

Section 31. Bad Acting Horse. At a meeting where there is no wagering, the starter may place a bad acting horse on the outside. At a pari-mutuel meeting, this action may be taken only if there is time for the starter to notify the judges, who shall in turn notify the public prior to the sale of tickets for the race. If tickets have been sold, the bad acting horse shall be scratched under the provisions of Section 30 of this administrative regulation.

Section 32. Post Positions; Heat Racing. The horse winning a heat shall take the pole (or inside position) in the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed in the last heat. If two (2) or more horses finish in a dead heat, their positions shall be settled by lot.

Section 33. Shield. The arms of a starting gate shall be provided with a screen or a shield in front of the position for each horse, and the arms shall be perpendicular to the rail.

Section 34. Unfair Advantage Prior to Start. If a horse comes to the gate out of its assigned post position and gains an unfair advantage by moving either to the left or right to its assigned post position before the starter gives the word, "go," that horse shall be disqualified and placed by the judges.

Section 35. Malfunction of the Gate. A licensed starter shall check the starting gate for malfunctions before commencing a meeting and shall practice the measures to be followed if there is a malfunction. Both the starter and the driver of the gate shall know and practice emergency measures, and the starter shall be responsible for the training of drivers in taking emergency measures.

Section 36. Timing Races. The time of a heat shall be taken by:

- (1) One electronic timing device; and
- (2) One hand-held timing device.

Section 37. Track Measurement Certificate. An association shall file with the commission a certificate from a duly licensed civil engineer or land surveyor attesting that the track has been measured from wire to wire three (3) feet out from the pole or inside hub rail, and certifying in linear feet the result of the measurement. If there is a change or relocation of the hub rail, the track shall be measured and recertified.

Section 38. Time for Lapped on Break. The leading horse shall be timed and his time only shall be announced. A horse shall not obtain a win race record by reason of the disqualification of another horse unless the horse's actual race time can be determined by photo finish or electronic timing.

Section 39. Time for Dead Heat. If there is a dead heat, the time shall constitute a record for the horses making a dead heat and both shall be considered winners.

Section 40. Timing Procedure. The time shall be taken from the first horse leaving the point from which the distance of the race is measured until the winner reaches the wire.

Section 41. Time Performances. Time performances shall be permitted with the permission of the presiding judge subject to the following:

- (1) A urine test or blood test or both shall be required for any horse with a winning time performance; and
- (2) A workout for the judges or time trial performance shall not be used to qualify a horse to race.

Section 42. Unless otherwise provided in the conditions, a purse shall be distributed on the dash basis with the money awarded according to a horse's position in each separate dash or heat of the race. Purse money distribution in overnight events shall be limited to the first five (5) finishers.

Section 43. Dashes.

- (1) Except for stakes or futurities as established in 810 KAR 5:050, Section 7, unless otherwise specified in the conditions, the money distribution in dashes shall be in the following percentages: fifty (50), twenty-five (25), twelve (12), eight (8), and five (5).
- (2) In early closing races, late closing races, or added money events, if there are less than five (5) starters, the remaining purse shall go to the race winner unless the conditions call for a different distribution.
- (3) In overnight events, if there are less than five (5) starters, the purse for the position for which there are no starters shall be retained by the association.
- (4) If there is a purse for which horses have started but were unable to finish due to an accident, all non-offending horses that did not finish shall share equally in the premium or premiums.
- (5) If there is a purse for which horses have started but were unable to finish and the situation is not covered by subsection (4) of this section, the purse shall be paid to the winner.

Section 44. If unfavorable weather or other unavoidable cause exists that necessitates postponement of a race, and the judges consent, an association shall postpone a race in the following manner:

- (1) Early closing races, stakes, and futurities shall be postponed to a definite hour the next fair day and good track.
- (2) A late closing race, early closing race, stake, or futurity (except as provided in subsections (4) and (5) of this section) that cannot be raced during the scheduled meeting shall be declared off, and the entrance money and forfeits shall be divided equally among the nominators who have horses declared in and eligible to start.
- (3) A late closing race or early closing race that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary. A late closing race or early closing race that has been started but postponed by rain earlier in the meeting shall be declared ended and the full purse divided according to the summary, if there is sufficient time to conduct the race during the scheduled meeting.
- (4) A stake or futurity shall be raced where advertised, and the race meeting, if necessary, shall be extended. A stake or futurity that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary, unless the association elects to extend the meeting to complete the race. A horse that is scratched after a heat and before a race is declared finished shall not participate in purse distribution from subsequent heats.
- (5) Unless otherwise provided in the conditions of the race, unanimous consent shall be obtained from the association and from those with eligibles in the race before a stakes race or futurity may be transferred to another meeting.
- (6) At a meeting of more than five (5) days duration, an overnight event may be postponed and carried over for a maximum of two (2) racing days.
- (7) At a meeting of five (5) days duration or less, an overnight event or late closing race shall be cancelled and starting fees shall be returned if postponement occurs, unless the association adds the postponed race to the advertised program and the race is held within two (2) weeks of cancellation.
- (8) A postponed race may, at the option of the association, be contested in a single mile dash. If a race is postponed under this administrative regulation, the association shall

select the order in which the events shall be raced in any combined program.

Section 45. Post Time.

(1) If racing is conducted at night or twilight, the racing program shall be completed no later than 12:00 a.m., midnight.

(2) Post time for the first race of the evening shall be fixed by the association. A delay in the first post of not more than ten (10) minutes from the established post time may be taken without prior approval of the commission.

Section 46. Number of Races Per Program.

(1) If eight (8) races are programmed, four (4) completed races shall constitute a completed program.

(2) If nine (9) races are programmed, five (5) completed races shall constitute a completed program.

(3) If ten (10) or more races are programmed, six (6) completed races shall constitute a completed program.

Section 47. Postponements.

(1) Racing shall not be conducted by an association over a track that is dangerous to drivers or horses.

(2) If inclement weather or other conditions appear to make the track dangerous, the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horseman's Association or the Kentucky Harness Association shall determine whether racing shall be conducted or postponed.

(3) If a difference of opinion exists between the representative of the association and the representative of the Kentucky Harness Horseman's Association or the Kentucky Harness Association as to whether racing shall be conducted or postponed, the decision of the presiding judge shall be final.

Section 48. Protests. Protests shall:

(1) Be made only by:

- (a) An owner;
- (b) A manager;
- (c) A trainer; or
- (d) A driver;

(2) Be made at any time before distribution of the purse is made;

(3) Be made in writing;

(4) Be sworn to; and

(5) Contain at least one (1) specific charge questioning eligibility which, if true, would prevent the offending horse from competing in the race.

Section 49. The judges shall, in case of protest, demand that the driver and the owner or owners, if present, shall immediately testify under oath. If a person refuses to testify after being ordered to do so and the race has not yet started, that person's horse shall not be allowed to start or continue in the race, but shall be ruled out, and any entrance money shall be forfeited.

Section 50. Unless the judges find satisfactory evidence to warrant excluding the horse, they shall allow a horse to start or continue in the race under protest. If the purse is won by that horse, it shall be retained by the association on behalf of the commission to allow the interested parties to continue the protest proceeding, in accordance with Section 53 of this administrative regulation.

Section 51. A person shall not knowingly, and with intent to influence the results of a race, protest a horse falsely and without cause.

Section 52. This administrative regulation shall not affect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, if the distribution is made upon the official placing at the conclusion of the heat or dash.

Section 53.

(1) A protest shall be reviewed and appealed in accordance with the procedures set forth in 810 KAR 8:030 and KRS Chapter 13B.

(2) The purse money affected shall be deposited with the association pending the decision of the protest review or appeal.

Section 54. A judge shall not refuse to accept a protest.

Section 55. A person who has knowledge, prior to a race, of information that would prevent an ineligible horse from running in a race, and who fails to file a protest prior to the race with regard to that horse, shall have waived the right to protest after the race if the protest would have prevented the ineligible horse from running in the race.

Section 56. Material Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) Rules and Regulations of the United States Trotting Association, 2018, Rule 18, Section 25, "Sulky Performance Standards"; and

(b) The Snell Memorial Foundation's "2000 Standard for Protective Headgear for Use in Harness Racing".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. 810 KAR 5:070 (45 Ky.R. 1958; 3139; eff. 5-31-2019; 46 Ky.R. 2531; 47 Ky.R. 73; eff. 7-30-2020; 48 Ky.R. 1383; eff. 4-5-2022.)

JONATHAN RABINOWITZ, Chair

RAY PERRY, Secretary

APPROVED BY AGENCY: August 30, 2021

FILED WITH LRC: September 2, 2021 at 1:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on November 22, 2021 via video conference 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 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 11:59 PM on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (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 administrative regulation establishes a comprehensive set of rules for the conduct of standardbred races. The regulation sets forth rules concerning fouls, improper driving, timing of races, placing and money distribution, postponement and rescheduling, post time requirements, and protests.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to provide a set of rules to ensure the orderly and fair running of standardbred races.

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

KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions relating to various aspects of the running of standardbred races.

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

This administrative regulation implements the statutory mandate of the Commission to promulgate regulations prescribing the conditions under which horse racing is conducted in the Commonwealth.

(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 proposed amendment will change the regulation to give the standardbred judges the discretion to cite a driver striking pylons but not gaining an unfair advantage.

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

This amendment is necessary to provide the judges with necessary discretion.

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

KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This proposed amendment prescribes the conditions relating to various aspects of the running of standardbred races.

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

This proposed amendment implements the statutory mandate of the Commission to promulgate regulations prescribing the conditions under which horse racing is conducted in the Commonwealth.

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

Kentucky's two licensed standardbred race tracks, and all individual participants in horse racing, are potentially affected by this proposed amendment's clarification of rules pertaining to the conduct of racing. In 2017, the Commission licensed over

22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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:

Participants in horse racing, and especially owners and trainers, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to entries and starters in standardbred racing.

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

No significant costs are associated with complying with this proposed regulatory amendment.

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

Participants in racing will benefit from clearly-defined rules that enhance the integrity of racing.

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

(a) Initially:

There is no initial administrative cost to implement this proposed amendment.

(b) On a continuing basis:

There is no continuing cost to implement this proposed amendment.

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

No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the Commission's budget.

(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:

This proposed amendment does not establish any new fees or increase any current fees to participate.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

(9) TIERING: Is tiering applied?

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(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 KHRC will be impacted by this regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, and 230.370.

(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.

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

(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 proposed amendment will not generate revenue for state or local government for 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 proposed amendment will not generate revenue for state or local government for subsequent years.

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

No funds will be required to administer this regulation for the first year.

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

No funds will be required to administer this regulation for 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 (+/-):Neutral

Other Explanation:

None