

PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)

820 KAR 1:025. Reports.

RELATES TO: KRS 238.530, 238.550, 238.555, 238.560, 238.570

STATUTORY AUTHORITY: KRS 238.515, 238.530, 238.550, 238.555, 238.560, 238.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(4) authorizes the Department of Charitable Gaming to promulgate administrative regulations establishing standards of accounting, recordkeeping, and reporting to ~~ensure~~~~insure~~ charitable gaming receipts are properly accounted for. KRS 238.530 authorizes the department to promulgate an administrative regulation to require a licensed distributor to report all activities relating to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment. KRS 238.560 authorizes the department to take administrative action against any person for any violation of the provisions of KRS Chapter 238 and the administrative regulations promulgated thereunder. This administrative regulation establishes the method and time of filing financial reports and remitting payment of fees due.

Section 1. Reporting.

(1) Licensees shall submit corresponding forms and reports quarterly as described in Section (2) of this administrative regulation:

(a) Licensed charitable organizations shall submit Form CG-FIN-ORG~~[CG-FIN]~~, "Financial Report for a Licensed Charitable Organization";

1. Licensed charitable organizations with gross receipts of less than \$200,000 per calendar year and no weekly bingo session shall only be required to submit Form CG-FIN-ORG~~[CG-FIN]~~ annually, on or before January 31 of each year;

2. Licensed charitable organizations receiving distributions from organizations described in subsection (1)(d) of this administrative regulation shall submit Form CG-FIN-ORG (RRA)~~[CG-FIN-RA]~~, "Financial Report for a Licensed Charitable Organization, Recipient Account". If the licensed charitable organization receives distributions from more than one such organization, it shall submit Attachment A-1 and G-1 for each distributing organization;

(b) Licensed charitable gaming facilities shall submit Form CG-FAC~~[CF-FAC]~~, "Licensed Charitable Gaming Facility Quarterly Report";

(c) Licensed distributors shall submit Form CG-FIN-DIS~~[CG-DIS]~~, "Licensed Charitable Gaming Distributor Quarterly Report" for each quarter that the distributor is licensed;

(d) Organizations licensed pursuant to KRS 238.535(14)(b) shall submit Form CG-FIN-SER, "Licensed Organization Financial Report for Special Event Raffle License Only."

(2) All financial reports shall be:

(a) Submitted on the appropriate form prescribed in Section 1(1) of this administrative regulation;

(b) Typed or in permanent ink;

(c) Complete, accurate, and legible;

(d) Contain the original signature and printed name or, if submitted electronically, the typewritten name of either the chief executive officer or the chief financial officer of the charitable organization, facility, or distributor; and

(e) Contain the original signature and printed name or, if submitted electronically, the typewritten name of the preparer of the report if prepared by an individual other than

the chief executive officer or chief financial officer.

Section 2. Quarterly Reporting Requirements.

(1) A licensee required to submit a quarterly report shall do so on or before the following dates for the preceding three month period:

- (a) April 30;
- (b) July 31;
- (c) October 31; and
- (d) January 31.

(2) If a date in Section 2(1) of this administrative regulation falls on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(3) The financial report and fee shall be considered timely filed if it has been:

- (a) Mailed to the department by first class mail, postage prepaid, to the correct address and postmarked by the due date;
- (b) Received in the department by hand-delivery on or before the due date; or
- (c) Received by the department electronically on or before the due date.

(4) If any report or portion thereof is not filed when due, or if any required fee is not remitted when due, the licensee shall be subject to disciplinary action pursuant to KRS 238.560.

Section 3. Specific Reporting Requirements for Licensed Charitable Organizations.

(1) The fee imposed by KRS 238.570(1) on gross gaming receipts of a licensed charitable organization shall be remitted by check made payable to "Kentucky State Treasurer" at the time the financial report is due.

(2) If a charitable organization does not have any information to place on an attachment to the financial report, it shall indicate "not applicable" on the attachment.

(3) To complete the Bingo Paper Supplies Inventory page of Form CG-FIN-ORG~~[CG-FIN]~~, the product description shall be listed in the format "# ON # UP", with:

- (a) The number "ON" being the number of bingo faces on a bingo paper sheet; and
- (b) The number "UP" being the number of bingo paper sheets contained in a bingo paper pack.

(4) If multiple pages are used for inventory, each person completing the inventory shall sign one (1) page of the pages that person completed and initial the remaining pages.

(5) All expenses incurred by a licensee shall be reported on the financial report for the date on which payment was made, which shall be either the date a check was written or an electronic funds transfer was made, regardless of when the supplies were used or the services were rendered.

Section 4. Incorporation by Reference.

(1) The following are incorporated by reference:

- (a) Form CG-FIN-ORG~~[CG-FIN]~~, "Financial Report for a Licensed Charitable Organization (2023)~~[(2018)]~~";
- (b) Form CG-FIN-ORG (RRA)~~[CG-FIN-RA]~~, "Financial Report for a Licensed Charitable Organization, Recipient Account (2023)~~[(2018)]~~";
- (c) Form CG-FIN-SER, "Licensed Organization Financial Report for Special Event Raffle License Only (2023)~~[(2018)]~~";
- (d) Form CG-FIN-FAC~~[CG-FAC]~~, "Licensed Charitable Gaming Facility Quarterly Report (2023)~~[(2018)]~~"; and
- (e) Form CG-FIN-DIS~~[CG-DIS]~~, "Licensed Charitable Gaming Distributor Quarterly Report (2023)~~[(2018)]~~".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Charitable Gaming, Public Protection Cabinet, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that this administrative regulation was distributed for review and commented to the Charitable Gaming Advisory Commission prior to its adoption, as required by KRS 238.522(1).

AMBROSE WILSON IV, Commissioner

APPROVED BY AGENCY: January 12, 2023

FILED WITH LRC: January 13, 2023 at 10:15 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2023, at 1:00 PM Eastern Time at the Mayo-Underwood Building, Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. 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 March 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Doug Hardin

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation identifies the reports that must be filed by licensed charitable gaming organizations, manufacturers, distributors, and gaming facilities and provides instructions for the information to be included and the timing for such reports to be due with the Department of Charitable Gaming.

(b) The necessity of this administrative regulation:

This regulation is necessary for the Department of Charitable Gaming to ensure that licensed charitable organizations, manufacturers, distributors, and gaming facilities make certain reports consistent with KRS Chapter 238.

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

Pursuant to KRS 238.522, the Department provided a copy of this proposed regulatory amendment to the Charitable Gaming Advisory Commission on December 16, 2022. KRS 238.515 authorizes the Department to promulgate administrative regulations to carry out and implement KRS Chapter 238. This administrative regulation requires that licensed charitable organizations, manufacturers, distributors, and gaming facilities make certain reports consistent with KRS Chapter 238 and establishes the forms used for reporting.

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

The Department of Charitable Gaming is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. The department must ensure that licensed charitable organizations, manufacturers, distributors, and gaming facilities report the information required by KRS Chapter 238 and 820 KAR Chapter 1 in a timely and accurate manner.

(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:

There is no change to the text of the administrative regulation other than correcting a misspelled word and updating the references to the incorporated forms.

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

There is no substantive change to the text of the administrative regulation, only updates to the incorporated forms.

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

KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of Chapter 238.

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

There is no substantive change to the text of the administrative regulation, only updates to the incorporated forms.

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

The Department of Charitable Gaming and its employees are affected by this administrative regulation. Manufacturers and distributors of paper and electronic pulltabs are also impacted by this administrative regulation. In addition, the licensees and exempt organizations will be affected by this administrative regulation. As of May 2022, the Department of Charitable Gaming regulated over 1,400 charitable gaming entities that will be affected by this administrative regulation, including 647 charitable gaming organizations, over 767 exempt charitable gaming organizations, twenty (20) manufacturers of charitable gaming supplies; fifteen (15) distributors of charitable gaming supplies; and twenty-nine (29) charitable gaming facilities.

(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:

The regulated entities must complete the reports, provide the necessary information, and pay the required fee set forth in this administrative regulation.

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

The amendment to 820 KAR 1:025 will impose no new costs on regulated persons or entities.

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

Licensees completing the required forms will avoid administrative penalties.

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

(a) Initially:

There will be no additional cost to implement this administrative regulation initially.

(b) On a continuing basis:

There will be no additional cost to implement this administrative regulation on a continuing basis.

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

No additional funding is necessary to implement this amendment to the administrative regulation.

(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:

The implementation of this administrative regulation requires no increase in fees or funding.

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

This administrative regulation neither directly nor indirectly increases any fees.

(9) TIERING: Is tiering applied?

Tiering is applied in Section 1 of this administrative regulation. Larger charitable organizations (those that gross \$200,000 or more) and those that run weekly bingo games are required to submit financial reports more often than smaller organizations.

Because those charitable organizations are more heavily involved in charitable gaming, Department employees must monitor their compliance more frequently.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Department of Charitable Gaming is the agency responsible for implementing this regulation. Local fire departments and school districts that use charitable gaming for fundraising will be impacted by this administrative regulation.

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

KRS 238.515, 238.530, 238.550, 238.555, 238.560, 238.570.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation is not intended to generate revenue for any state or local government agency.

(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 administrative regulation is not intended to generate revenue for any state or local government agency.

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

There is no cost to administer this administrative regulation for the first year.

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

There is no cost to administer this administrative 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 (+/-):None

Expenditures (+/-):None

Other Explanation:

None

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

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

This administrative regulation is not intended to generate cost savings for regulated entities in the first year.

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

This administrative regulation is not intended to generate cost savings for regulated entities in subsequent years.

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

This administrative regulation is not intended to generate costs for regulated entities in the first year.

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

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

Cost Savings (+/-):None

Expenditures (+/-):None

Other Explanation:

None

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

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