

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)

810 KAR 4:090. Owners.

RELATES TO: KRS 230.215, 230.260, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.310, 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which horse racing shall be conducted in Kentucky. KRS 230.310 requires any person who desires to participate in racing in Kentucky as an owner to apply to the commission for a license, and authorizes the commission to promulgate administrative regulations pertaining to licensing. KRS 230.320 authorizes the commission to promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse. The function of this administrative regulation is to outline the requirements for owners to participate in horse racing in Kentucky.

Section 1. Owner's License Required. A horse shall not be raced in this state unless the owner or each of the part owners, except as established in Section 4 of this administrative regulation, has been granted a current owner's license or temporary license by the commission.

Section 2. Owner's License Limitations.

(1) A licensed owner or trainer may personally serve as a farrier or jockey for horses he or she owns or are registered as in his or her care, if he or she has received from the stewards a certification of the licensee's fitness as a competent farrier or jockey.

(2) A licensed owner shall:

- (a) Own or have under lease a horse eligible to race and be prepared to prove same upon call of the stewards; and
- (b) Not engage in an activity directly or indirectly involving the racing performance of horses owned by others.

(3)

(a) Except as established in paragraph (b) of this subsection, a licensed owner shall be at least eighteen (18) years old.

(b) The commission may grant an owner's license to a person less than eighteen (18) years of age who is a son or daughter of a licensed owner in this state, if the parent:

- 1. Holds an owner's license in this state; and
- 2. Files with the license application of the minor an agreement whereby the parent assumes responsibility for meeting all financial, contractual, or other obligations relating to racing of the applicant son or daughter.

(4) The commission may deny, suspend, or revoke an owner's license for the spouse or any member of the immediate family or household of a person who is ineligible to hold an owner's license, unless there is a showing on the part of the applicant or licensed owner that his or her participation in racing as an owner shall in no way circumvent the intent of the administrative regulation by permitting a person, under the control or direction of a person ineligible for an owner's license, to serve in essence as a substitute for the ineligible person.

Section 3. Ownership Disclosure.

- (1) Licensed owners and licensed trainers shall be jointly responsible for making a full disclosure of the entire ownership of each horse in their care.
- (2) Disclosure under this section shall identify in writing all persons who directly, or indirectly through a lien, lease partnership, corporate stockholding, syndication, or other joint venture, hold any present or reversionary right, title, or interest in and to a horse, and those persons who by virtue of any form of interest may exercise control over or benefit from the racing of the horse. The degree and time of ownership held by each person shall also be designated.
- (3) Disclosure under this section shall be made when registering each horse with the racing secretary upon arrival on association grounds or at time of entry, whichever event occurs first, and shall be revised immediately upon any subsequent change in the ownership.
- (4) Disclosure under this section together with all written agreements, and affidavits setting out oral agreements, pertaining to the ownership of or rights to a horse, shall be filed with the stewards.
- (5) All documents pertaining to the ownership or lease of a horse filed with the stewards shall be available for public inspection.
- (6) The stewards may review the ownership of each horse entered to race. The stewards may determine the validity for racing purposes of all leases, transfers, and agreements pertaining to ownership of a horse and may call for adequate evidence of ownership at any time. The stewards may declare ineligible to race any horse, the ownership or control of which is in question.

Section 4. Joint Ownership.

- (1) No person owning five (5) percent or less of a horse shall be required to obtain a license. ~~[More than five (5) individual persons shall not be licensed as owners of a single horse.]~~
- (2) If more than two (2) individuals~~[five (5) individual persons]~~ own interests in a single horse, through a partnership, corporation, syndication, or other joint venture, then those individual persons shall designate a member of the partnership, corporation, syndicate, or joint venture to represent the entire ownership of and be responsible for the horse as the licensed principal owner.
- (3) The commission may deny, suspend, or revoke the license of any owner whose ownership of a horse is qualified or limited in part by rights or interests in or to the horse being held or controlled by any other individual person or persons who would be ineligible to be licensed as an owner.

Section 5. Program Listing of Owners.

- (1) Names of all persons licensed as owners of each horse shall be listed in the daily program, subject to subsection (2) of this section.
- (2) Up to ten (10) individual owners or entities may be listed in the program as owners of a single horse. If space limitations preclude listing of first names, then at least two (2) initials shall precede surnames.
- (3) Stable names, partnerships, corporations, syndicates, or other joint ventures may be listed in the program with the principal owner's name shown parenthetically. ~~[Stable names, or corporate names, registered in other racing jurisdictions may be shown parenthetically if program space limitations permit.]~~
- (4) Lessees licensed as owners shall be designated on the program as lessees of each leased horse.

Section 6. Leases.

- (1) A horse may be raced under lease with approval of the stewards, who may suspend or void approval at any time.

- (2) A lease shall not be approved by the stewards for racing purposes unless:
- (a) Lessee is licensed as an owner and lessor is either licensed as an owner or is eligible to be licensed as an owner;
 - (b) Each of the signatures of the lessors and lessees on the lease agreement is subscribed and sworn to before a notary public;
 - (c) Term of the lease is no less than one (1) year, unless sooner terminated by claim or retirement of the horse;
 - (d) Conditions of the lease specify whether or not the horse can be entered in a race to be claimed. If agreeable to lessor that the horse may be entered in a claiming race, then the lease shall specify the minimum price for which the horse may be entered and the name of the payee of the claiming price;
 - (e) Conditions of the lease specify that upon claim of the horse, the lease shall terminate and all rights in and to the horse shall pass to claimant as a bona fide purchaser; and
 - (f) After reviewing the full ownership of the leased horse, and the interests of all persons involved in the lease and the term and conditions of the lease, the stewards in their discretion find that the lease:
 - 1. Completely divests lessors or sublessors of further control or direction of the racing performance of the horse while under lease; and
 - 2. The resultant program listing of lessee shall not mislead the betting public by reason of the absence in the program listing of the name of a person or persons possessing a beneficial interest in the leased horse.

Section 7. Thoroughbred Racing Colors.

- (1) Thoroughbred owners shall be responsible for designing and providing individual racing colors, consisting of jackets and caps of distinctive color and pattern to be worn by jockeys during a race.
- (2) The stewards may refuse to permit the use of racing colors that include advertising, or promotions, symbols or words, or that otherwise, in the opinion of the commission, are not in keeping with the traditions of the turf.
- (3) A thoroughbred shall not be raced in racing colors other than those registered in the name of the horse's owner without special permission of the stewards. If an owner races two (2) or more horses in the same race, jackets shall be identical while caps may be varied in color or design.
- (4) Owners and trainers shall be jointly responsible for the condition of racing colors, ~~ensuring~~~~[insuring]~~ that they are neat, clean, and in good repair, and that an adequate number of sets of racing colors are placed in the care of the clerk of scales.
- (5) The clerk of scales and the valet serving a jockey shall be jointly responsible for having the correct jacket and cap on each rider upon leaving the jockey room for the paddock.

Section 8. Authorized Agent.

- (1) A licensed owner may, as a principal, authorize any person, as an agent, to act on the owner's behalf in all matters pertaining to racing in this state and ownership of horses on association grounds.
- (2) A licensed owner shall be jointly liable and responsible with his or her licensed authorized agent for all acts and omissions of the authorized agent in a racing matter.

Section 9. Suspension. A horse owned wholly or in part by an owner whose license has been suspended shall not be permitted to race during suspension.

Section 10. Partnerships.

- (1) If requested by the stewards or the commission, partnerships ~~[Partnerships]~~ that own or control a present or reversionary interest in a horse to be raced shall file partnership

~~papers with an owner's license application and shall set forth;[shall register with the commission.]~~

~~[(2)] [Partnership papers shall be filed with an owner's license application and shall set forth.]~~

- (a) The name and address of every person having an interest in the horse involved;
- (b) The relative proportion of the interests;
- (c) To whom winnings are payable;
- (d) In whose name the horse shall run;
- (e) With whom the power of entry and declaration rests;
- (f) The terms of any contingency, lease, or any other arrangement; and
- (g) The names of the horses involved.

~~(2) [(3)]~~ All partnership registrations shall be signed by the principal partner or by his or her authorized agent.

~~(3) [(4)]~~ Any alteration in a recorded partnership shall be reported in writing to the commission and signed by all the partners, or their authorized agent.

~~(4) [(5)]~~ All the parties in a partnership and each of them shall be jointly and severally liable for all stakes, fees, and other obligations.

JONATHAN RABINOWITZ, Chairman

RAY PERRY, Secretary

APPROVED BY AGENCY: May 10, 2023

FILED WITH LRC: May 12, 2023 at 9 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. on July 21, 2023 at 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 p.m. on July 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 below.

CONTACT PERSON: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jennifer Wolsing, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation sets forth the requirements and responsibilities imposed upon horse owners who participate in racing in Kentucky.

(b) The necessity of this administrative regulation:

This regulation is necessary to set forth the rules and requirements to participate as a horse owner in horse racing in Kentucky.

(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. KRS 230.310 authorizes the Commission to promulgate administrative regulations governing the licensing of participants in horse racing, including horse owners.

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

This administrative regulation assists in the effective administration of statutes by setting forth owner requirements that ensure and enhance the integrity of racing in Kentucky.

(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:

The primary proposed changes are summarized as follows: Removes language from the Joint Ownership section limiting the number of individual persons that can be licensed as owners of a single horse. Amends language under the Joint Ownership section such that if more than two (2) individuals own an interest in a single horse, then those individuals shall designate one of the individual owners to represent the entire ownership group and be responsible for the horse as the licensed principal owner. Adds language to the Joint Ownership section that no person owning five percent (5%) or less of a horse shall be required to obtain a license. Amends language under the Program Listing of Owners section to allow for up to ten (10) individual owners or entities to be listed in the program as owners of a single horse. Stable names, partnerships, corporations, syndicates, or other joint ventures may be listed in the program with the principal owner's name shown parenthetically. Adds language to the Leases section to clarify that a lease shall not be approved by the stewards for racing purposes unless the lessor is licensed as an owner or is eligible to obtain an owner's license. Amends language under the Partnerships section such that partnership papers shall be filed with an owner's license application if requested by the stewards or the commission.

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

These amendments are necessary to clarify licensing requirements and allow for more owners to be licensed and listed in racing programs.

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

KRS 230.310 authorizes the Commission to promulgate administrative regulations governing the licensing of participants in horse racing, including horse owners.

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

This amendment will allow more owners to be licensed and listed in racing programs, thus potentially increasing licensing revenue and horse ownership in Kentucky.

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

The KHRC is affected by this regulation. In 2017, the Commission issued approximately 7,000 licenses to horse owners participating in racing. This figure is consistent from year to year. Our licensed associations will have more flexibility to include additional owner names in racing programs.

(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:

Horse owners desiring to participate in horse racing in Kentucky will be required to obtain a license and adhere to the requirements of this regulation.

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

A Thoroughbred owner's license costs \$150. A Standardbred owner's license costs \$125. An owner's license for a Quarter Horse or other horse costs \$35.

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

Horse owners will benefit from clear licensing conditions. More people will be able to be listed in racing programs as owners of horses.

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

(a) Initially:

There is no initial cost to implement this amendment.

(b) On a continuing basis:

There is no continuing cost to implement this amendment.

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

Any costs incident to the issuance of licenses will be funded through 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:

No increase in fees or funding will be necessary to implement this administrative regulation.

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

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

(9) TIERING: Is tiering applied?

Tiering is not applied because the amended regulation will apply to all similarly situated entities in an equal manner.

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 Horse Racing Commission 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, KRS 230.310, KRS 230.360

(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 regulation may generate additional revenue for state government for its first year, as a result of more licenses being issued. This regulation will not generate additional revenue for local governments during its 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 regulation may generate additional revenue for state government for subsequent years, as a result of more licenses being issued. This regulation will not generate additional revenue for local governments during subsequent years.

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

No additional 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 additional 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 (+/-):Some revenue may be generated for state government, as a result of more licenses being issued.

Expenditures (+/-):Neutral

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 regulation will not generate cost savings for regulated entities during the first year.

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

This regulation will not generate cost savings for regulated entities during subsequent years.

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

This regulation will not cost regulated entities during the first year.

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

This regulation will not cost regulated entities during 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 (+/-):\$0.00

Expenditures (+/-):\$0.00

Other Explanation:

N/A

(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)] As set forth above, this regulation will not have a major economic impact on state government, local government, or regulated entities.