

## **STATEMENT OF EMERGENCY**

### **809 KAR 1:003E.**

This emergency regulatory amendment is promulgated to prevent a loss of state funds that are required to be deposited with the State Treasury pursuant to KRS 230.817, and to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute. More specifically, this administrative regulation is filed on an emergency basis to ensure: (1) that funds are timely remitted to the State Treasury in accordance with the General Assembly's statutory mandate set out in KRS 230.817; and (2) that a fully functioning sports wagering system is established within six (6) months of the effective date of House Bill 551 (2023 Regular Session), pursuant to the timeline established in KRS 230.361. The Kentucky Horse Racing Commission therefore seeks to implement sports wagering on an emergency basis, in order to comply with the above-referenced statutory requirements. This emergency regulation will be replaced by an ordinary administrative regulation at this time. The ordinary administrative regulation is identical to this emergency administrative regulation.

*ANDY BESHEAR, Governor*

*RAY PERRY, Secretary*

**PUBLIC PROTECTION CABINET**  
**Kentucky Horse Racing Commission**  
**(New Emergency Administrative Regulation)**

**809 KAR 1:003E. Occupational licenses.**

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: 230.260(9), 230.310(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16) requires the commission to promulgate administrative regulations to establish standards for the conduct of sports wagering. KRS 230.310(2) requires the commission to license applicants for occupations related to sports wagering, particularly those who have the capacity to affect the outcome of sports wagering and their supervisors. This administrative regulation establishes occupational licensing application procedures and requirements for individuals involved in the conduct and management of sports wagering in the Commonwealth.

**Section 1. Definitions.**

- (1) "Annual license" means the occupational license issued by the commission after a thorough review of an application, valid for the calendar year for which it is applied.
- (2) "Applicant" means a person that applies for an occupational license.
- (3) "Background check" means a review of an applicant's criminal, financial, and personal history conducted by the commission.
- (4) "Critical component" means any sub-system for which failure or compromise can lead to loss of player entitlements, government revenue or unauthorized access to data used for generating reports for the regulatory body.
- (5) "Fees" mean the administrative charges levied by the commission for the processing, issuance, and renewal of occupational licenses.
- (6) "Information technology professional license" means a category of occupational license, which is required for all individuals who are responsible for managing, maintaining, developing, and securing the digital and technical assets and systems of an Operator or Service Provider.
- (7) "Key employee license" means a category of occupational license, which is required for all significant employees working for an Operator or a Service Provider who have substantial decision-making power.
- (8) "Licensee" means any individual or entity that has been granted an occupational license by the commission.
- (9) "Occupational license" means the categories of licenses established by the commission for participants in sports wagering pursuant to KRS 230.210.
- (10) "Race and sportsbook employee license" means a category of occupational license, which is required for all individuals listed in Section 6 of this administrative regulation.
- (11) "Temporary license" means a provisional license granted by the commission during the process of evaluating an application for a permanent license.

**Section 2. General Requirements for Applications.**

- (1) Eligibility: Any individual or entity desiring to participate professionally in sports wagering activities in the Commonwealth shall apply to the commission for an occupational license as categorized in Section 4 of this administrative regulation. This type of license shall be required for certain persons working in a licensed facility for sports wagering, supervisors of individuals who can influence the outcome of sports wagering, specific individuals who have the capability to affect the outcome of sports wagering through the deployment of code and other persons required under this KAR Title 809.

- (2) Submission timeframe: Applications for licenses shall be submitted annually. Licenses granted shall remain active only for the calendar year for which they have been applied.
- (3) Legal compliance: All applicants shall demonstrate compliance with all laws and regulations regulating sports wagering in Kentucky and any other regulatory, state, federal, or taxing authority.
- (4) Lack of material misrepresentation: All information provided on the application form shall be accurate and complete. Material misrepresentation on the application may result in immediate suspension, revocation, denial of the license, or imposition of fines by the commission.
- (5) Minimum age: The minimum age requirement for an occupational license in sports wagering shall be eighteen (18) years.
- (6) Transparency in entities: If an entity consisting of multiple individuals applies for a license, the entity shall fully disclose the identities and the type of ownership held by all controlling individuals. This information shall include the degree and type of ownership held by each individual in the entity.
- (7) Categories of licenses: Different roles within the sports wagering industry may require distinct categories of licenses as set forth in Section 5 of this administrative regulation.

### Section 3. Application Fees.

- (1) All required application fees described under this section shall be submitted to the commission in the form of a certified check, ACH payment, or cashier's check made payable to the commission, or other form as prescribed by the commission.
- (2) The following fees shall accompany applications for the following categories of occupational license:
  - (a) Race and Sportsbook Employee License: \$150;
  - (b) Information Services Provider: \$5,000; and
  - (c) Key Employee: \$1,500.
- (3) All occupational licenses shall be renewed annually. The renewal fee for each category shall be the same as the initial licensing fee.
- (4) If additional costs become necessary to investigate an applicant for a license, the commission may assess an additional investigation fee at its discretion. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license. The investigative fee shall be based on actual costs. If any portion of the investigative fee remains after the investigation is concluded, the remaining portion shall be returned to the applicant or licensee.
- (5) Except as noted in subsection (4) of this section, all fees are non-refundable, regardless of whether the application is approved, denied, withdrawn, or if the license is surrendered or revoked.

### Section 4. Applications.

- (1) Application procedures shall be as follows:
  - (a) An application shall be deemed filed when the commission has received the completed application forms, including the information that the commission has required.
  - (b) Applicants shall submit the application online at <https://khrc.ky.gov/> or in hard copy to the commission's office in Lexington, Kentucky.
  - (c) An applicant shall be under a continuing duty to disclose any changes in the information submitted to the commission.
  - (d) Any change in information required for licensing shall be submitted in writing and filed at the commission's office in Lexington, Kentucky, within thirty (30) days of the change, unless it is information listed in (e) of this section.

(e) Alternatively, any change in information may be reported online via a method approved by the commission,

(f) The applicant shall report changes in information in writing within five (5) days of the occurrence for these items:

1. Criminal charges;
2. Criminal convictions;
3. License denials and license suspensions of ten (10) days or more;
4. License revocations or fines of \$500 or more in other jurisdictions;
5. Racing related disciplinary charges pending in other jurisdictions; and
6. Withdrawal, with or without prejudice, of a license application by the licensee in any jurisdiction.

(2) An applicant for a racing and sportsbook employee license or an information services license shall include with its application an agreement or statement of intent indicating that a licensed operator or service provider shall utilize the applicant for the provision of goods and services. For 2023, the agreement or statement of intent supporting the applicant's claims may come from a person applying for an operator or service provider license.

(3) The application forms shall be accompanied and supplemented by such documents and information as may be specified or required by the commission. Failure to supply the information requested within five (5) days after the request has been made by the commission shall constitute grounds for delaying consideration of the application.

(4) Renewal applications for licenses may be submitted and may be renewed upon the filing and approval of an application for renewal. Renewal applications for occupational licenses shall be received by the commission sixty (60) days before the expiration of the current license. Renewal applicants who fail to submit their completed applications when due shall not be considered to have made a timely and sufficient application for renewal.

#### Section 5. Temporary Licenses.

(1) The commission may issue a temporary license in accordance with KRS 230.805.

(2) The commission may issue the applicant a temporary license if the application and a criminal history check completed by the commission reveals that the applicant:

- (a) has not been charged or convicted of a felony under state or federal law;
- (b) has not been charged or convicted of a misdemeanor related to gaming; and
- (c) otherwise meets the statutory criteria set forth in KRS Chapter 230.

(3) A temporary license issued under this section shall include, at a minimum, the following:

- (a) The applicant's name and business address;
- (b) A temporary license number assigned by the commission;
- (c) Signature of the executive director, the commission chair, or their designee;
- (d) The date the temporary license was issued;
- (e) The date the temporary license will expire; and
- (f) A reference to any conditions placed on the temporary license.

(4) If the commission grants an annual license to a temporary license holder, the temporary license shall automatically expire upon the start date of the annual license.

(5) A temporary license shall not be transferred without prior approval by the commission.

(6) Failure to advise the commission that the applicant has failed to begin or has ceased providing a licensee with goods and services shall be grounds for the commission to withdraw the temporary license and deny licensure in the future.

#### Section 6. Categories of Occupational Licenses.

(1) Race and sportsbook employee licenses

(a) Race and sportsbook employee license holders shall include the following categories of people, except as otherwise provided in this section:

1. Individuals who work directly in a licensed facility for sports wagering regarding the sports wagering aspect of the facility, including:

- a. Sports wagering customer service representatives;
- b. Sports wagering ticket writers;
- c. Sports wagering supervisors;
- d. Sports wagering security personnel; and
- e. Sports wagering facility management;

2. Individuals directly supervising other employees in any licensed Kentucky sports wagering business who have the capability of affecting the outcome of sports wagering;

3. Employees in any licensed Kentucky sports wagering business who have the capability to affect the outcome of sports wagering through the deployment of code to production for any critical component of a sports wagering system; and

4. Employees whose duties are performed in the licensed facility for sports wagering that involve money obtained as a result of sports wagering, including the handling of tickets, money, or performing accounting and auditing functions.

(b) The following people shall hold a race and sportsbook employee license, even if they do not work directly in a licensed facility for sports wagering regarding the sports wagering aspect of the facility:

1. Audit manager;
2. Chief of security;
3. Chief of surveillance;
4. Chief financial officer or controller;
5. General manager;
6. Support operations manager;
7. Change management employees; and
8. Compliance employee supervisors;
9. Information technology professionals responsible for maintaining the technology infrastructure of the sports wagering system; and
10. Any other employee of an operator or service provider whose duties:
  - a. Are performed in the licensed facility for sports wagering and whose duties affect sports wagering;
  - b. Affect the flow of money obtained as a direct result of sports wagering operations; or
  - c. Include accounting and auditing functions and whose duties relate to money obtained as a result of sports wagering;

(2) Information services licenses. All business entities that provide information services to sports wagering licensees in Kentucky shall obtain an information services license, such as:

- (a) Sports Wagering Oddsmakers or Traders;
- (b) Sports Wagering Data Source;
- (c) Sports Wagering Risk Management;
- (d) Sports Wagering Player Account Management; and
- (e) Sports Wagering Platform Providers, including geolocation technology, Know Your Customer, or Sports Wagering Equipment Manufacturer.

(3) Key employee licenses.

(a) Each person applying for a license under this administrative regulation that is not an individual shall designate an individual with decision-making authority for its day-to-day operations to apply for a key employee license.

(b) Additionally, a licensed sports wagering business operating in Kentucky shall designate a supervisor for the following areas to apply for a key employee license:

1. Compliance;
2. Trading;
3. Customer Service;
4. Finance and Audit;
5. Risk and Payments; and
6. Information Technology.

**Section 7. Waiver for Race and Sports Book Employee License or Key Employee License.**

(1) At any time, an applicant shall submit a written request for a waiver to be exempt from licensure to prevent dual licensing for one individual across multiple disciplines. This waiver shall be submitted to the commission's office in Lexington, Kentucky on form Race & Sportsbook and Key Employee License Waiver Form, KHRC 01-003-04 or online at <http://khrc.ky.gov>.

(2) The written request for waiver shall include at least the following information:

- (a) The name and contact information of the waiver applicant;
- (b) All gaming licenses issued to the waiver applicant;
- (c) All horse racing licenses issued to the waiver applicant; and
- (d) The waiver applicant's current position and job description.

(3) Upon receipt of a waiver request, the commission may grant or deny a waiver, upon consideration of at least the following factors:

- (a) The nature of the employee's duties; and
- (b) The best interests and integrity of horse racing, pari-mutuel wagering, and sports wagering.

**Section 8. Background Checks.** After an applicant files a license application, the commission may:

- (1) Investigate the criminal background, employment history, and gaming history record of the applicant;
- (2) Verify information provided by the applicant; or
- (3) Engage in research and interviews to determine the applicant's character and qualifications.

**Section 9. License Denial, Revocation, or Suspension.**

(1) The commission or its designee shall deny, suspend, or revoke a license, or otherwise penalize in accordance with KRS 230.310, 230.260, or 230.814 a sports wagering licensee, for any of the following reasons:

- (a) Lack of suitability as set forth in KRS Chapter 230;
- (b) Adverse effect on public interest, failure to uphold the integrity of the regulatory activities, or engagement in conduct that is otherwise against the best interest of sports wagering, pari-mutuel wagering, or horse racing;
- (c) Any criminal conviction, pending charges, or violation of regulatory laws;
- (d) Previous license denial, suspension, or revocation by any authority of any state or federal jurisdiction;
- (e) Material misrepresentation, falsification, or omission of information in a license application;
- (f) Violation or attempt to manipulate outcomes of regulated activities, such as sports wagering, pari-mutuel wager, or horse racing, in any jurisdiction;
- (g) Financial irresponsibility or engagement in actions against the best interest of the regulated activities;
- (h) Failure to comply with rulings, orders, or requirements of the commission, such as failure to cooperate with a commission investigation;

- (i) Misconduct or disorderly behavior on regulated grounds; or
- (j) Possession of prohibited substances or devices, or employment of unlicensed personnel.
- (2) A license suspension, revocation, or denial shall be reported in writing to the applicant by the commission or its designee.
- (3) Licensees or applicants may appeal the suspension, revocation or denial accordance with KRS Chapters 13B and 230.

Section 10. Reciprocity. If a person's license has been denied, suspended, or revoked in another jurisdiction, the commission may require reinstatement of the license in that jurisdiction before a license is granted by the commission.

Section 11. Changes in Application Information.

- (1) Any changes in the information provided by the licensee or applicant required for obtaining or maintaining a license shall be promptly reported to the commission in writing.
- (2) Changes in information that are not detailed in subsection (2) shall be reported to the commission within thirty (30) days of the change occurring.
- (3) The licensee or applicant shall report the following changes in information to the commission in writing within five (5) days:
  - (a) The licensee or applicant is charged with criminal activity related to sports wagering;
  - (b) The licensee or applicant is convicted of a crime related to sports wagering;
  - (c) The licensee or applicant's sports wagering license is denied or suspended for ten (10) days or more in any jurisdiction; and
  - (d) The licensee or applicant's sports wagering license is revoked or they are fined \$500 or more in other jurisdictions;

Section 12. License Identification and Display.

- (1) For each issued license, the commission shall provide an identification badge to individuals or a certificate of licensure to entities.
- (2) All individuals working in a licensed facility for sports wagering shall wear an identification badge.
- (3) Operators or service providers shall disable the work badge of any person whose license has been revoked or suspended.
- (4) Each identification badge or license shall contain essential details, including, but not limited to, the licensee's name, license number, date of issuance, and expiration date.
- (5) Individual licensees shall be required to wear their identification badges visibly at all times during their working hours in any licensed facility for sports wagering.
- (6) In cases where a licensee fails to display their badge or license as required, the commission may impose penalties, which may include fines, suspension, or revocation of the license.
- (7) Loss, theft, or damage of an identification badge or license shall be reported to the commission immediately. The commission shall provide a process for obtaining replacement badges or licenses under these circumstances.
- (8) Any attempt to falsify, alter, or misuse an identification badge or License shall be considered a severe violation and may result in immediate revocation of the license and potential legal action.

Section 13. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "Information Services License Application Form", KHRC 01-003-01, 06/2023;
  - (b) "Multi-Jurisdictional Key Employee License Form", KHRC 01-003-02, 06/2023;

(c) "Race and Sportsbook Employee Application Form", KHRC 01-003-03, 06/2023;  
and

(d) "Race & Sportsbook and Key Employee License Waiver Form", KHRC 01-003-04,  
06/2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site at <http://khrc.ky.gov>.

*JONATHAN RABINOWITZ, Chair*

*RAY PERRY, Secretary*

APPROVED BY AGENCY: July 10, 2023

FILED WITH LRC: July 10, 2023 at 4:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2023 at 9:00 a.m. 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 was received by that date, the hearing may be cancelled. 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 August 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: 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](mailto:jennifer.wolsing@ky.gov).