

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amended After Comments)

810 KAR 2:100. Self-exclusion.

RELATES TO: KRS 230.260(15), 61.870-61.884

STATUTORY AUTHORITY: KRS 230.260(15)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260 authorizes the Horse Racing Commission to promulgate administrative regulations prescribing conditions for a self-exclusion list for people who identify as problem or compulsive gamblers. This statute also requires the Commission to promulgate regulations prescribing conditions for notifications of the availability of this list by racing associations.

Section 1. Self-Exclusion List.

(1) The racing commission shall establish and maintain a self-exclusion list for individuals who wish to be temporarily or permanently excluded from gambling in the Commonwealth for any reason, such as self-identification as problem or compulsive gamblers~~{self-identify as problem or compulsive gamblers}~~.

(2) The list shall include the names and other identifying information of the individuals who have self-excluded from gambling at racing tracks, as set forth in Section 3(1) of this administrative regulation.

Section 2. Notice to the Public.

(1) Each racing association shall display a notice to the public of the existence of the self-exclusion list and the method or methods individuals may use to self-identify at the track, online, or by phone.

(2) The notice shall be displayed at public entrances to the wagering-specific locations of the racing track and on the racing association's Web site.

(3) The notice shall include information about the consequences of self-exclusion, including that the individual will be prohibited from entering the racing track and participating in any gambling activity at the track.

(4) The notice and its placement locations shall be approved by the commission.

Section 3. Collection of Self-Exclusion Information.

(1) Each racing association shall collect self-exclusion information from individuals who self-identify as problem or compulsive gamblers.

(2) The self-exclusion information collected shall include the individual's name, address, date of birth, and other identifying information as prescribed by the racing commission.

(3) The racing association shall provide the self-exclusion information to the racing commission on an as-needed basis, but at least weekly~~{a weekly basis}~~ and in a manner approved by the commission.

Section 4. Compilation of Comprehensive List.

(1) The racing commission shall compile and maintain a comprehensive list of all individuals who have self-excluded from gambling at racing tracks.

(2) The comprehensive list shall include the self-exclusion information provided by each racing association.

(3) The comprehensive list shall be provided to all racing associations and updated on an as-needed basis, but at least monthly.

Section 5. Confidentiality of Self-Exclusion Information.

(1) Pursuant to KRS 61.878(1)(a) and 230.260, information collected under this subsection shall be excluded from the application of KRS 61.870 to 61.884.

(2) Self-exclusion information shall be kept confidential and shall not be disclosed except as necessary to enforce these regulations or as required by law.

Section 6. Self-exclusion Policy.

(1) Each racing association may establish its own self-exclusion policy. Each policy shall be approved by the racing commission to ensure the best interests of horse racing and compliance with KRS 230.260.

(2) The policy may cover how the racing association chooses to exclude individuals on the exclusion list. The policy may include identification and verification, forfeiture of prizes by excluded persons, security personnel, technology, employee training, contractual obligations, or collaboration with other racing associations.

(3) Each racing association shall review its self-exclusion policy at least once every two (2) years and amend it as necessary to ensure compliance with commission regulations and its effectiveness in achieving the purposes for which it is established.

JONATHAN RABINOWITZ, Chairman

RAY PERRY, Secretary

APPROVED BY AGENCY: August 3, 2023

FILED WITH LRC: August 8, 2023 at 11:00 a.m.

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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 self-exclusion list for individuals who self-identify as problem or compulsive gamblers.

(b) The necessity of this administrative regulation:

KRS 230.260(15) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers. This regulation fulfills that statutory mandate.

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

KRS 230.260(15) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers. This administrative regulation fulfills that statutory mandate. This administrative regulation also requires each racing association to display a notice to the public of the self-exclusion list and the method or methods individuals may use to self-identify as stated in the statute. This administrative regulation also requires each racing association to forward self-exclusion information to the Kentucky Horse Racing Commission, who shall compile the information into a comprehensive list to provide to the racing associations, as required by statute.

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

This administrative regulation will assist in the effective administration of the mandates in KRS 230.260(15).

(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 KHRC made two changes to this regulation due to public comments. First, the KHRC amends the regulation to allow the self-exclusion list to be used by any patron, including, but not limited to, patrons who self-identify as being problem or compulsive gamblers. Second, the KHRC amends the regulation to state that associations shall provide self-exclusion information on an as-needed basis, but at least weekly.

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

The first proposed amendment, which allows the list to be used by any patron, may make the self-exclusion list more attractive to patrons because they will not have to identify as problem or compulsive gamblers to take advantage of self-excluding. The second proposed amendment will allow associations to update the self-exclusion list more often than weekly if they choose to do so.

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

KRS 230.260(15) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing a self-exclusion list for individuals who self-

identify as being problem or compulsive gamblers. The proposed amendments fulfill that statutory mandate.

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

The proposed amendments will assist in the effective administration of the mandates in KRS 230.260(15).

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

This administrative regulation affects Kentucky's licensed racing associations.

(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:

Kentucky's licensed racing associations will be required to display a notice to the public of the existence of the self-exclusion list and the method or methods individuals may use to place themselves on the list (regardless of whether the patron self-identifies as a problem or compulsive gambler). The associations will also be required to collect self-exclusion information and provide that self-exclusion information to the Kentucky Horse Racing Commission as needed, but at least on a weekly basis.

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

The licensed racing associations are expected to have little to no costs to comply with this administrative regulation.

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

Compliance with this administrative regulation promotes the integrity of Kentucky's racing and wagering industries.

(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 administrative regulation.

(b) On a continuing basis:

There is no continuing cost to implement this administrative regulation.

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

There is no increased cost.

(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 administrative regulation does not establish any fees or increase any current fees.

(9) TIERING: Is tiering applied?

Tiering was not applied because this administrative 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 administrative regulation.

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

The statutory authority for this administrative regulation is found in KRS 230.260(15).

(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 administrative regulation will not generate revenue 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 administrative regulation will not generate revenue for subsequent years.

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

Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program for the first year.

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

Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program 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

(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 is not anticipated to generate cost savings in the first year.

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

This regulation is not anticipated to generate cost savings in subsequent years.

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

This regulation is anticipated to generate little to no new costs in the first year.

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

This regulation is anticipated to generate little to no new costs in 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 (+/-):While self-exclusion lists are currently maintained by the individual tracks, there could be minimal data entry required, with such costs assumed to be negligible.

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)]. The KHRC does not anticipate a major economic impact, as set forth in the answers to the questions above.