

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amended at ARRS Committee)

809 KAR 1:002. Service provider licensing.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.260, 230.361, 230.811, 230.814

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 230.361 requires/states~~ the ~~rac~~ing commission ~~to/shall~~ promulgate administrative regulations to establish a fully functioning sports wagering system. ~~KRS 230.811 and KRS 230.814 authorize/permit~~ a licensed service provider to conduct sports wagering in Kentucky. This administrative regulation establishes ~~clear~~ requirements and guidelines concerning the process by which applications for a service provider license for sports wagering in Kentucky are reviewed and approved.

Section 1. Definitions.

- (1) "Applicant" means a person applying for a service provider license under KRS 230.814.
- (2) "Application" means "Initial/Renewal Application for Service Provider License," KHRC 01-003-01, 06/2023.
- (3) "Service provider" is defined by KRS 230.210(~~30~~).
- (4) "Service provider license" means a license granted to a service provider that has a contract with an operator to provider sports wagering services pursuant to KRS 230.814.
- (5) "Substantial owner" means a person who owns five (5) percent or more of the company.

Section 2. Applications for Sports Wagering Service Providers.

- (1) Initial applications. An applicant shall apply to the commission for a service provider license pursuant to KRS 230.814.
- (2) Renewal applications. A service provider license shall be renewed annually in accordance with KRS 230.814.
- (3) An initial or renewal application for a service provider license shall be submitted on the form ~~Initial/Renewal Application for a Service Provider License,~~ KHRC 01-003-01, 06/2023, pursuant to Section 6 of this administrative regulation.

Section 3. License Fees.

- (1) An applicant shall submit the initial fee of \$50,000 with an initial application for a service provider license. The initial fee shall not be refundable.
- (2) A service provider shall submit the renewal fee of \$10,000 with a renewal application for a service provider license. The renewal fee shall not be refundable.
- (3) Pursuant to KRS 230.811, the fees in this section shall be deposited into the fund established by KRS 230.817.
- ~~(4) [Renewal applications for a service provider license shall be received by the commission 120 days before the expiration of the current license.]~~

Section 4. Licensing Criteria. The commission shall grant a service provider ~~license/application~~ if the commission determines that the applicant's participation as a sports wagering service provider is in the best interests of sports wagering in Kentucky. The commission shall consider, at a minimum, whether or not the applicant/the following factors:

- (1) ~~Whether the applicant~~ Otherwise qualifies to receive a license under KRS Chapter 230;
- (2) Has ~~Whether the applicant's~~ key persons and substantial owners who qualify to receive applicable occupational licenses under 809 KAR 1:003;
- (3) ~~Whether the applicant,~~ In the case of an individual~~,~~ or the applicant's substantial owners, is at least eighteen (18) years of age;
- (4) ~~Whether the applicant~~ Demonstrates a level of skill, experience, knowledge, and ability necessary to operate as a service provider as required under this administrative regulation;
- (5) ~~Whether the applicant~~ Was convicted or charged with any offense for a violation of a gaming law in any jurisdiction;
- (6) ~~Whether the applicant~~ Appears on the exclusion list of any jurisdiction for having violated a rule of gaming;
- (7) ~~Whether the applicant~~ Has at least one (1) contract to provide services pursuant to KRS 230.814 to a sports wagering operator; and
- (8) ~~Whether the applicant~~ Or the applicant's substantial owners are in substantial compliance with all state and federal tax laws.

Section 5. Temporary Licensing.

- (1) The commission may grant a temporary license after an applicant submits an initial application if the submitted information is sufficient to determine the applicant's suitability and based on the history, if any, of the applicant for a service provider license or its parent company of offering sports wagering or other gaming in other jurisdictions.
- (2) An applicant issued a temporary license pursuant to this administrative regulation or KRS 230.260 shall not be entitled to receive any refund of the ~~license~~ fee submitted in connection with the license application.
- (3) The commission may change a temporary license issued pursuant to this administrative regulation into an annual license if:
 - (a) All investigations into the license application are complete;
 - (b) The commission is satisfied the holder of a temporary license qualifies to hold an annual license; and
 - (c) The applicant, its parent company, or affiliate subsidiaries have demonstrated that it is licensed to provide gaming services in at least three (3) other United States gaming jurisdictions.
- (4) ~~If when~~ the commission changes a temporary license into an annual license, the date of issuance of the annual license shall be deemed to be the date that the commission approved the annual license.
- (5) A temporary authorization ~~shall may~~ expire of its own accord, or it may be suspended, revoked, or summarily suspended. Suspension, revocation, and summary suspension shall be under the same terms and conditions as an annual license.
- (6) The temporary license shall not extend beyond one (1) year and shall expire at the end of the calendar year for which it was issued.

Section 6. Application Procedure.

- (1) Application procedures for service providers shall be as established in paragraphs (a) through (g) of this subsection.~~follows.~~
 - (a) The commission may deny the application if the applicant makes a material misrepresentation or omission in its application or supporting documentation~~made with respect to an application may be grounds for denial of the application.~~
 - (b) An application shall be deemed filed when the commission receives the completed application forms, including all additional information that the commission requires.

(c) The completed applications shall be filed as established in subparagraphs 1. and 2. of this paragraph.~~follows:~~

1. An applicant shall submit an original ~~and five (5) copies~~ of a fully-executed hard copy application to the commission at the commission's office in Lexington, Kentucky ~~and for~~ shall submit the application online at <https://khrc.ky.gov/>.

2. An applicant ~~Applicants~~ shall submit the application by September 1 of the year immediately preceding the year for which the license is sought~~prior to November 1 of each year~~.

(d) An applicant shall be under a continuing duty to disclose any changes in the information submitted to the commission.

(e) Any service provider license holder that enters into or modifies a contract with ~~an~~a new operator licensed under 810 KAR 3:010 shall provide notice to the commission and a copy of the contract within fourteen (14) calendar days.

(f) Any service provider license holder that enters into or modifies a contract with ~~an~~a new occupational licensee that is an information services provider shall provide notice to the commission within fourteen (14) calendar days and, ~~if/as~~ requested, a copy of the contract.

(g) If a service provider license holder ceases to offer goods and services to an operator licensee, then the service provider shall notify the commission.

(2) An application for a service provider's license shall include ~~the following information~~:

(a) The name, address, and legal information of the applicant that allows the commission to verify the applicant's legal existence, status, and eligibility for a license, including the applicant's:

1. Business registration details,
2. Business structure, and
3. Business identification number.

(b) A Key Employee License Application~~Application(s)~~as required by 809 KAR 1:003, Section 6~~(6)~~(3)~~Application for a substantial owner or key person~~;

(c) A description of all sports wagering services, equipment, devices, and supplies offered for sale or lease by the applicant in connection with sports wagering;

(d) Details regarding the corporate form of the applicant, including the legal structure or type of business applying for the license;

(e) Relevant contracts related to the sports wagering;

(f) Disclosure of any criminal, civil, or administrative action brought against the applicant;

(g) Description of all other licenses held by the applicant;

(h) The applicant's audited financial statements for each of the three (3) fiscal years immediately preceding the application; and

(i) Organizational and ownership charts of the applicant.

(3) Initial applications completed for sports wagering conducted in 2023 may also serve as the renewal application for sports wagering conducted in 2024.

(4) For sports wagering conducted in 2025 and thereafter, an application shall be filed with the commission prior to November 1 of the preceding calendar year.

Section 7. Duty to Maintain Suitability; Duty to Disclose; Transfer of Ownership Interest.

(1) A service provider shall have a continuing duty to maintain suitability for licensure. A license issued under this administrative regulation does not create a property right but shall be a revocable privilege granted by the commission contingent upon continuing suitability for licensure.

(2) A service provider shall be responsible for ~~the following~~:

- (a) Ensuring that all aspects of the sports wagering operation are conducted in accordance with 809 KAR 10:001 through 809 KAR 10:007;
 - (b) The acts of its employees and agents in the course of their employment; and
 - (c) Notification of a material change in the information submitted in the application, or a matter that renders the service provider ineligible to hold a service provider license.
- (3) A substantial change in ownership shall not occur without prior approval from the commission **based on the best interests of sports wagering.**

Section 8. Incorporation by Reference.

(1) "Initial/Renewal Application for Service Provider License", KHRC 01-002-001, 06/2023, is incorporated by reference.

(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>.**

(50 Ky.R. 533, 1317, 1499; eff. 4-2-2024.)

FILED WITH LRC: December 11, 2023

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