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MEMORANDUM

TO: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission

FROM: Emily Caudill, Regulations Compiler

RE: Acknowledgement of Proposed & Emergency Regulation – 809 KAR 010:001 & E, 809 KAR 010:002 & E, 809 KAR 010:003 & E, 809 KAR 010:004 & E, 809 KAR 010:005 & E, 809 KAR 010:006 & E, 809 KAR 010:007 & E, 809 KAR 010:008 & E

DATE: July 10, 2023

A copy of the ordinary and emergency administrative regulations listed above are enclosed for your files. Pursuant to KRS 13A.190, the emergency administrative regulation became effective upon filing with our office on **July 10, 2023** and, unless an extension on the accompanying ordinary is requested, will expire either in 270 days on **April 5, 2024**, or when replaced by its corresponding ordinary regulation, whichever occurs first. Please note - Expiration dates may be impacted by legislation or other statutes.

Emergency regulation

The emergency regulation is tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **September 2023** meeting. We will notify you of the date and time of this meeting once it has been scheduled. Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration for this emergency regulation is due **by noon on September 15, 2023**.

Ordinary regulation

The ordinary regulation is tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **October 2023** meeting. We will notify you of the date and time of this meeting once it has been scheduled. Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration for this ordinary regulation or a one-month extension request is due **by noon on October 13, 2023**.

Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

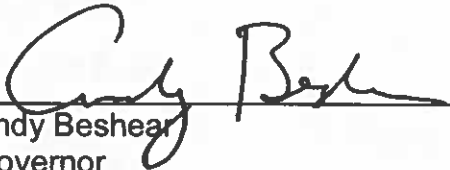
Enclosures

FILED WITH LRC
TIME: 4pm
JUL 10 2023
Emily B. Conhill
REGULATIONS COMPILER

STATEMENT OF EMERGENCY

809 KAR 10:002E ↓D

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

1 PUBLIC PROTECTION CABINET

2 KENTUCKY HORSE RACING COMMISSION

3 New emergency administrative regulation

4 809 KAR 10:002E. Standards for Sports Wagering

5 RELATES TO: KRS Chapter 230

6 STATUTORY AUTHORITY: KRS 230.260(16), KRS 230.361, KRS 230.808

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260 requires the
8 commission to "promulgate administrative regulations to establish standards for the
9 conduct of sports wagering." KRS 230.361 states the "racing commission shall
10 promulgate administrative regulations to establish a fully functioning sports wagering
11 system...." KRS 230.808 lists the categories of sporting events that may be wagered upon
12 and permits a sports governing body to submit a request to the commission to restrict,
13 limit, or exclude a type, form, or category of sports wagering. This administrative
14 regulation establishes standards for sports wagering in Kentucky, including authorized
15 and prohibited sporting events and types of wagers and data sources for sports wagering

16 Section 1. Authorized and Prohibited Sporting Events and Types of Wagers

- 17 (1) Sporting Events that may be wagered upon include those listed in KRS 230.808.
18 (2) Of those events listed in KRS 230.808, only those categories of Sporting Events
19 and their Types of Wager authorized by the racing commission in accordance with Section
20 2 and posted on the racing commission's website may be offered for Sports Wagering by
21 a Licensee.

1 (3) Notwithstanding any contrary provisions of this regulation, any wager which
2 complies with the following criteria and does not involve any criteria listed in subsection
3 (4) is generally approved and does not need specific approval under Section 2 prior to
4 being offered by a Licensee:

5 (a) It is decided based on an outcome or outcomes determined because of a
6 Sporting Event or Sporting Events sanctioned by a Sports Governing Body or
7 equivalent that is approved by the racing commission;

8 (b) It is based on statistical results that can be verified by a data source, box
9 score, aggregation of box scores, or other statistical analysis;

10 (c) It is based on the performance of a single or group of rostered or otherwise
11 registered participants; and

12 (d) It is based on the result of an outcome on the field of play.

13 (4) A Licensee shall not offer Sports Wagering on:

14 (a) Any Electronic Sporting Event that:

15 (1) Is not sanctioned by an approved Sports Governing Body or
16 equivalent; or

17 (2) Has not been approved by the racing commission pursuant to the
18 regulations established in Section 2;

19 (b) Any occurrence of injuries or penalties;

20 (c) Any outcome of replay reviews;

21 (d) Any disciplinary proceedings against a participant in a Sporting Event;

22 (e) Any amateur youth sporting events in which the majority of participants
23 are under the age of eighteen (18) or are competing on behalf of or under the

1 sponsorship of one or more public or private preschools or public or private
2 elementary, middle or junior high, or high schools;

3 (f) Any Sporting Event or Type of Wager in which the outcome has already
4 been determined and is publicly known;

5 (g) Any dog or horse races; and

6 (h) Any categories of Sporting Event or Type of Wager until the Sporting
7 Event or Type of Wager has been approved by the racing commission in
8 accordance with Section 2 of this regulation.

9 Section 2. Petition for a Category of Sporting Event or Type of Wager

10 Except as provided in Section 1(3), all types of wagers and categories of Sporting Events
11 shall be reviewed and approved by the racing commission before a Licensee is permitted
12 to offer the wager to the public. A Licensee may petition the racing commission for
13 approval of a new category of Sporting Event or Type of Wager.

14 (1) A proposed new Sporting Event or Type of Wager may be a variation of an
15 authorized Sporting Event or Type of Wager, a composite of authorized Sporting Events
16 or Types of Wager, or a new Sporting Event or Type of Wager.

17 (2) A petition for a proposed new Sporting Event or Type of Wager shall be in writing
18 and shall include the following information or material as requested by the racing
19 commission:

20 (a) The name(s) and address(es) of petitioner(s);

21 (b) The name of the Sporting Event or Type of Wager;

- 1 (c) Whether the Sporting Event or Type of Wager is a variation of an
2 authorized Sporting Event or Type of Wager, a composite of authorized Sporting
3 Events or Types of Wager, or a new Sporting Event or Type of Wager;
- 4 (d) The name of the Licensee serving as a sponsor of the new Sporting Event
5 or Type of Wager variation petition;
- 6 (e) A complete and detailed description of the Sporting Event or Type of Wager
7 for which approval is sought, including:
- 8 1. A summary of the Sporting Event or Type of Wager and the manner in
9 which Sports Wagers would be placed and winning Sports Wagers would
10 be determined;
 - 11 2. A draft of the proposed wagering rules, which includes a description
12 of any technology that would be used to offer the Sporting Event or Type of
13 Wager;
 - 14 3. Any rules or voting procedures related to the Sporting Event or Type of
15 Wager; and
 - 16 4. Written attestation that the Sporting Event or Type of Wager meets
17 the requirements of subsection (3) below;
- 18 (f) For the approval of an Electronic Sporting Event, complete information
19 about:
- 20 1. The proposed location(s) of the Electronic Sporting Event;
 - 21 2. The video game used for the Electronic Sporting Event, including
22 the key role of game publishers as creators of the underlying video game;

- 1 3. The Electronic Sporting Event Operator, whether the Electronic
2 Sporting Event Operator is approved to host events by the video game
3 publisher, and whether the Electronic Sporting Event Operator has any
4 affiliation with the video game publisher; and
- 5 4. The manner in which the Electronic Sporting Event is conducted by
6 the Electronic Sporting Event Operator, including Electronic Sporting
7 Event rules; and
- 8 5. As required by the commission, certification from a third party, such
9 as an Electronic Sporting Event Operator or game publisher certifies that
10 the Electronic Sporting Event meets all event integrity requirements of the
11 racing commission;
- 12 (g) The name of the Sports Governing Body or equivalent; and
- 13 (h) A description of the Licensee's policies and procedures regarding event
14 integrity.
- 15 (3) The Type of Wager being requested shall meet the following criteria before the
16 request may be approved:
- 17 (a) The outcome can be verified;
- 18 (b) The outcome can be generated by a reliable and independent process;
- 19 (c) The Sporting Event generating the outcome is conducted in a manner that
20 ensures sufficient Integrity Monitoring controls exist so the outcome can be
21 trusted;
- 22 (d) The outcome is not likely to be affected by any Sports Wager placed; and
- 23 (e) The Sporting Event is conducted in conformity with applicable laws.

1 (4) The racing commission shall approve types of wagers and categories of Sporting
2 Events in a reasonable time frame. The racing commission will consider the request, all
3 provided materials and any relevant input from the Sports Governing Body or equivalent,
4 or the conductor of the Sporting Event, prior to authorizing a Sporting Event or Type of
5 Wager.

6 (5) The racing commission may require an appropriate test or experimental period
7 before granting final approval to a Sporting Event or Type of Wager. The racing
8 commission may subject any technology that would be used to offer a Sporting Event or
9 Type of Wager to such testing, investigation, and approval.

10 (6) The racing commission may grant, deny, limit, restrict, or condition a request made
11 pursuant to this procedure for reasonable cause, in order to ensure the integrity of Sports
12 Wagering in the commonwealth. The racing commission may issue an order revoking,
13 suspending, or modifying any approval of a Sporting Event or Type of Wager granted
14 under this procedure for reasonable cause.

15 (7) The racing commission shall notify all Licensees of any additions, deletions, or
16 changes regarding authorized Sporting Events and Types of Wager. Once a particular
17 category of Sporting Event or Type of Wager is approved for its first use, it may be used
18 on multiple events without further approval. The racing commission may issue general
19 approval for Licensees to offer wagers on enumerated categories of Sporting Events and
20 Types of Wagers.

21 (8) The racing commission reserves the right to prohibit the acceptance of any Sports
22 Wagers and may order the cancellation of Sports Wagers and require refunds on any

1 Sporting Event or Type of Wager for which wagering would be contrary to the public
2 policies of the Commonwealth.

3 (9) If it is determined that a Licensee has offered an unauthorized or prohibited
4 Sporting Event or Type of Wager, the Licensee shall immediately cancel and refund all
5 Sports Wagers associated with the unauthorized or prohibited Sporting Event or Type of
6 Wager. The Licensee shall notify the racing commission promptly after cancelling and
7 refunding the Sports Wagers. This notice shall include, without limitation, which Sports
8 Wagers were cancelled or refunded and the reasons for the cancellations or refund.

9 (10) The racing commission may use any information it considers appropriate, such as
10 information received from a Sports Governing Body or equivalent, to determine whether
11 to authorize or prohibit wagering on a particular Sporting Event or Type of Wager,
12 consistent with industry standards.

13 (11) The racing commission may restrict, limit, or exclude a certain type, form, or
14 category of sports wagering if the racing commission determines that the restriction,
15 limitation, or exclusion is necessary to ensure the integrity of the Licensee.

16 Section 3. Limitations on Certain Sports Wagering for Good Cause.

17 A Sports Governing Body may submit a request to the racing commission to restrict, limit,
18 or exclude a certain type, form, or category of Sports Wagering pursuant to KRS 230.808.

19 (1) The Sports Governing Body shall provide the racing commission with notice of a
20 request to restrict, limit, or exclude a certain type, form, or category of Sports Wagering,
21 which shall contain information required by the racing commission, including:

- 1 (a) The identity of the Sports Governing Body and contact information for at
2 least one specific individual who will be the primary point of contact for questions
3 related to the request;
- 4 (b) A description of the Sports Wagering information, event, or wager type
5 that is the subject of the request; and
- 6 (c) Information explaining why granting the request is necessary to protect the
7 integrity of the event, or public confidence in the integrity of the event, that is the
8 subject of the request. This may include information regarding any credible threat
9 to the integrity of the event that is beyond the control of the sports governing
10 body to preemptively remedy or mitigate.
- 11 (2) The request shall be sent to the racing commission at least ten (10) calendar days
12 before the particular Sporting Event. At any time, however, a sports governing body shall
13 report information to the racing commission if it involves allegations of prohibited activity,
14 such as match-fixing, the manipulation of an event, or misuse of inside information.
- 15 (3) The racing commission shall request comment from Licensees on all requests
16 made under subsection (1). The request for comment shall include the date by which
17 written comments shall be submitted to the racing commission.
- 18 (4) The racing commission shall grant or deny the request pursuant to the criteria
19 established in KRS 230.808.
- 20 (5) The racing commission may provisionally grant the request pursuant to the criteria
21 established in KRS 230.808.
- 22 (6) The racing commission may reconsider its decision if there is a material change in
23 the circumstances related to the original request.

1 Section 4. Data Sources for Sports Wagering.

2 A Licensee shall report to the racing commission in its Sports Wagering License
3 application the Data Source that it uses to resolve Sports Wagers. The racing commission
4 may disapprove of a Data Source for any reason in the best interest of sports wagering
5 integrity.

6 (1) The Data Source and corresponding data shall be complete, accurate, reliable,
7 timely, and available.

8 (2) The Data Source shall be appropriate to settle the category of Sporting Events and
9 types of wagers for which it is used.

10 Section 5. Wagering Rules.

11 The Licensee shall adopt comprehensive wagering rules, which shall be approved by the
12 racing commission.

13 (1) The wagering rules shall be conspicuously displayed on the Licensee's Website or
14 Mobile Application and within the Race and Sports Book Location, and copies shall be
15 made readily available to individuals and patrons. Licensees may elect to display copies
16 of comprehensive wagering rules solely in electronic form on Sports Wagering Kiosks,
17 provided such Licensees display commission-approved short-form house rules in Race
18 and Sports Book Locations.

19 (2) The wagering rules shall comply with GLI-33 Standards and shall specify the
20 amount to be paid on winning wagers and the effect of schedule changes.

21 (3) The Licensee shall not implement any changes or modifications of the practices,
22 procedures, or representations upon which the approval of wagering rules was based

1 without the prior approval of the racing commission. Failure by a Licensee to act in
2 accordance with its approved wagering rules may result in disciplinary action.

3 Section 6. Tournaments, Contests, and Pools.

4 (1) No Sports Wagering tournament, contest, or pool shall be conducted unless the
5 Licensee, before the first time a tournament, contest, or pool type is offered, files written
6 notice with the racing commission of its intent to offer that tournament, contest, or pool
7 type and obtains approval from the racing commission. The Licensee may file a master
8 list with the racing commission to satisfy this requirement.

9 (2) The request shall provide a detailed description of the tournament, contest, or pool
10 type and shall include the rules of the tournament, contest, or pool, the requirements for
11 entry, the entry fees, the Rake, and potential payouts. The request shall also indicate
12 whether the proposed type involves a shared liquidity pool available to patrons in
13 Kentucky and other jurisdictions with the Prize Pool being comprised of entry fees
14 collected from patrons in multiple jurisdictions.

15 (3) The request shall be submitted to the commission in writing via electronic mail and
16 in hard copy. All such requests shall be submitted at least ten (10) business days prior to
17 start date of the tournament, contest, or pool.

18 (4) Once a Licensee receives approval to offer a tournament, contest, or pool type the
19 Licensee shall not be required to seek additional approvals from the racing commission
20 for each subsequent type that has only minor variations, such as to the size, number of
21 entries permitted, entry fee, rake, or prize structure.

22 (5) Each Licensee shall maintain a record of each tournament, contest, or pool it offers
23 for five (5) years. These records shall include the following:

- 1 (a) Name or identification of the tournament, contest, or pool;
- 2 (b) The date and time the tournament, contest, or pool occurred or will occur
- 3 (if known);
- 4 (c) Sporting Events and Types of Wager;
- 5 (d) Rules concerning tournament, contest, or pool play and participation; and
- 6 (e) For each patron:
 - 7 (1) Unique patron identification;
 - 8 (2) Amount of entry fee collected, including any promotional or bonus
 - 9 credits, and the date collected;
 - 10 (3) Patron scorings or rankings; and
 - 11 (4) Amount of payouts paid, including any promotional or bonus c
 - 12 redits, and the date paid;
- 13 (f) Total amount of entry fees collected, including any promotional or bonus
- 14 credits;
- 15 (g) Total amount of payouts paid to patrons, including any promotional or
- 16 bonus credits;
- 17 (h) Total Rake, takeout, or fees collected;
- 18 (l) Funding source amount or amounts comprising the Prize Pool, such as
- 19 buy-ins, re-buys, or add-ons.;
- 20 (j) Prize structure on payout;
- 21 (k) Methodology for determining winner or winners; and
- 22 (l) The current status of the tournament, contest, or pool, such as whether
- 23 the event is in-progress, complete, interrupted, cancelled.

1 (6) The Licensee shall be responsible for the Rake. At no time shall the calculation
2 resulting from a Rake or Rake Adjustment be negative.

3 (7) For a contest, tournament, or pool which utilizes shared liquidity available to
4 patrons in Kentucky and other jurisdictions, the Rake rate shall be the same for all
5 jurisdictions participating.

6 Section 7. Acceptance of Wagers.

7 (1) A Licensee shall comply with GLI-33 Standards when accepting wagers.

8 (2) A Licensee shall not set lines or odds or offer wagering propositions designed for
9 the purposes of ensuring that a patron will win a Sports Wager or a series of Sports
10 Wagers, unless the lines, odds, or wagering propositions are offered in connection with a
11 promotion or bonus conducted in accordance with Section 9.

12 (3) A Licensee shall not accept a Sports Wager on a Sporting Event unless a wagering
13 proposition is posted by electronic or manual means.

14 (4) Sports Wagers may only be made by patrons using forms of payment approved by
15 the racing commission including the following:

16 (a) Cash;

17 (b) Cash equivalents converted to cash;

18 (c) Credit or debit cards;

19 (d) Electronic funds transfers (EFTs) including automated clearing house and
20 other electronic methods;

21 (e) Promotional or bonus credit;

22 (f) Winning Sports Wagering Tickets or Vouchers; and

23 (g) Funds within a Sports Wagering Account.

1 (5) The Licensee shall debit the amount wagered by a patron from their Sports
2 Wagering Account. Wagers shall not be accepted in an amount in excess of a Sports
3 Wagering Account balance.

4 (6) No Licensee shall accept a Sports Wager from a person on the Sports Wagering
5 Account of or for any other person.

6 (7) The Licensee shall operate and communicate with the Sports Wagering System in
7 a way that does not provide or facilitate a wagering advantage based on access to
8 information and processing of Mobile Sports Wagers by account holders relative to
9 patrons who wager at a Licensed Premises.

10 Section 8. Cancelled or Voided Wagers.

11 Wagers shall not be cancelled or voided without prior approval of the commission, unless
12 the wagers are cancelled or voided by an authorized supervisory employee of the
13 Licensee, in accordance with GLI-33 standards and this section.

14 (1) Cancellation of an otherwise validly placed Sports Wager by a Licensee shall be
15 nondiscretionary. A Licensee may cancel or void a Sports Wager without prior
16 authorization of the racing commission only under the following circumstances:

17 (a) Any Sports Wager where after a patron has placed a Sports Wager, the
18 Sporting Event is cancelled, postponed or rescheduled to a different date prior to
19 completion of the Sporting Event;

20 1. In the case of a Sports Wager on a portion of a Sporting Event, that
21 Wager shall be valid when the event is canceled, postponed, or
22 rescheduled if the outcome of the affected portion was determined prior to
23 the cancelation, postponement or rescheduling; or

1 2. A Licensee may establish a timeframe in which an event may be
2 rescheduled or postponed without canceling the Sports Wager. This
3 timeframe shall be tied to specific Sporting Events, subject to the approval
4 of the racing commission, and documented in the Internal Controls;

5 (b) A change in the venue where a Sporting Event was scheduled to be held
6 occurs after a patron has placed a Sports Wager and the Licensee cancels or voids
7 the Sports Wager prior to the commencement of the Sporting Event;

8 (c) Any Sports Wager when an individual participant fails to participate in a
9 Sporting Event and the outcome of the wager is solely based upon that individual
10 participant's performance;

11 (d) Any Sports Wager received for an act, or set of acts, to be performed
12 during a Sporting Event when such act or acts does not occur and the ability to
13 Wager on the non-occurrence of the event was not offered;

14 (e) Any Wager received on whether a team will qualify to participate in post-
15 season competitions when the number of teams allowed to participate in the
16 post-season changes after a patron has placed a Wager;

17 (f) Changes to rules are made by a Sports Governing Body or equivalent
18 regarding the format or number of participants scheduled to participate in a
19 defined phase of a Sporting Event or that particular phase is not played at all;

20 (g) Where the Licensee has reasonable basis to believe there was an obvious
21 error in the placement or acceptance of the Wager, including:

- 22 1. The Wager was placed with incorrect odds;
- 23 2. Human error in the placement of the Wager; or

1 3. Any other obvious error specifically defined in the Licensee's Internal
2 Controls.

3 (h) When a patron requests a Sports Wager be cancelled or voided prior to
4 the commencement of the Sporting Event due to an error in communicating the
5 type, amount or parameters of the Sports Wager; or

6 (i) When authorized or ordered by the racing commission pursuant to this
7 section.

8 (2) A Licensee may cancel or void at Sports Wager for a material change in
9 circumstances for a given Sporting Event or Type of Wager occurs, provided:

10 (a) The racing commission approves the material change;

11 (b) The Licensee documents the material change in its Internal Controls; and

12 (c) The Licensee displays the material change to a patron at the time of
13 placement of the Sports Wager;

14 (3) For all circumstances that are not established in subsection (1), a Licensee may
15 request the racing commission authorize the cancellation or voiding of all Sports Wagers
16 of a specific type, kind, or subject. A Licensee shall submit its request to cancel or void
17 the Sports Wager in writing, and such request shall contain the following:

18 (a) A description of the type, kind, or subject of Sports Wager the Licensee is
19 requesting to cancel or void;

20 (b) A description of any facts relevant to the request; and

21 (c) An explanation why cancelling or voiding the Sports Wager is in the best
22 interests of the Commonwealth or ensures the integrity of the Sports Wagering industry.

1 (4) The racing commission shall issue a written order granting or denying the request
2 to cancel or void the Sports Wager. In determining whether to grant or deny the request,
3 the racing commission shall consider at least the following factors:

4 (a) Whether the alleged facts implicate the integrity of the Sporting Event
5 subject to the Wager or the Sports Wagering industry;

6 (b) Whether the alleged facts implicate possible illegal activity relating to the
7 Sporting Event or the Sports Wagering industry;

8 (c) Whether allowing the Wager would be unfair to patrons; or

9 (d) Whether allowing the Wager is contrary to public policy.

10 (5) No Sports Wager subject to the request to cancel or void shall be redeemed,
11 cancelled, or voided, until the racing commission or its designee issues an order granting
12 the request to cancel.

13 (6) If the racing commission or its designee grants the request to cancel or void, the
14 Licensee shall make commercially and technologically reasonable efforts to notify patrons
15 of the cancellation or voiding of the Sports Wager.

16 (7) The racing commission or its designee has discretion to order all Licensees to
17 cancel or void all Wagers on a specific Sporting Event or Wagers of a specific type or kind
18 on a specific Sporting Event. In exercising its discretion, the racing commission shall
19 apply the same factors described in subsection (1).

20 (8) A patron may request the racing commission or its designee review any Sports
21 Wager declared cancelled or voided by a Licensee. If the racing commission or its
22 designee concludes there is no reasonable basis to believe there was obvious error in

1 the placement or acceptance of the Sports Wager, the racing commission or its designee
2 may order the Licensee to honor the Sports Wager.

3 (9) A Sports Wager shall not be declared canceled or voided without the approval of
4 an authorized supervisory employee of the Licensee pursuant to the Licensee's Internal
5 Controls, unless the racing commission or its designee has issued an order requiring the
6 Sports Wager to be canceled or voided.

7 (10) If a Sports Wager is declared canceled or voided, the Sports Wager shall be
8 refunded to the patron and that amount shall be deducted from the Adjusted Gross
9 Revenue.

10 Section 9. Promotional or Bonus Wagering.

11 A Licensee may conduct Sports Wagering promotions or bonuses in accordance with this
12 section:

13 (1) Procedures for the issuance, acceptance, and tracking of promotions or bonuses
14 shall be defined in the Licensee's Internal Controls.

15 (2) A Licensee shall maintain a record of all promotions or bonuses related to Sports
16 Wagering to facilitate the racing commission's tracking of promotional or bonus activity,
17 which shall address the following:

- 18 (a) Unique ID for each promotion or bonus;
- 19 (b) The date and time the promotion or bonus was or is scheduled to be
20 available;
- 21 (c) Current balance for promotional or bonus awards;
- 22 (d) Total amount of promotional or bonus awards issued;
- 23 (e) Total amount of promotional or bonus awards redeemed;

- 1 (f) Total amount of promotional or bonus awards expired;
- 2 (g) Total amount of promotional or bonus award adjustments;
- 3 (h) The current status of the promotion or bonus (active, disabled,
4 decommissioned, etc.); and
- 5 (i) The date and time the promotion or bonus was or is scheduled to be
6 decommissioned.
- 7 (3) All promotion or bonus rules shall be full, accurate, concise, transparent, and shall
8 not contain misleading information. Promotion or bonus rules shall be readily accessible
9 by the patron and provide unambiguous notice of the:
- 10 (a) Date and time the promotion or bonus is active and expires;
- 11 (b) Rules of play;
- 12 (c) Nature and value of prizes or awards;
- 13 (d) Eligibility restrictions or limitations;
- 14 (e) Wagering and redemption requirements, which shall include a description
15 of any limitations on such;
- 16 (f) How the patron is notified when they have received an award;
- 17 (g) Order in which funds are used for wagers;
- 18 (h) Eligible events or wagers; and
- 19 (i) Cancellation requirements.
- 20 (4) Promotions or bonuses shall not be described as free or risk-free if those
21 promotions or bonuses require the patron to incur any loss or risk the patron's own money
22 to use or withdraw winnings from the free wager;

1 (5) A Licensee shall provide a clear and conspicuous method for a patron to cancel
2 their participation in a promotion or bonus that utilizes restricted wagering credits that
3 cannot be cashed out until a wagering requirement or other restriction associated with the
4 credits is met:

5 (a) Upon request for cancellation, the Licensee shall inform the patron of the
6 amount of unrestricted funds that will be returned upon cancellation and the
7 value of restricted wagering credits that will be removed from the Sports
8 Wagering Account; and

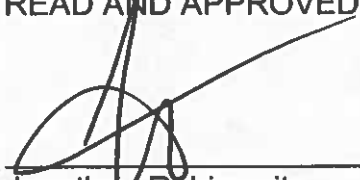
9 (b) If a patron elects to proceed with cancellation, unrestricted funds
10 remaining in a patron's Sports Wagering Account shall be returned according to
11 the rules of a promotion or bonus.

12 (6) Once a patron has met the terms of a promotion or bonus, a Licensee shall not
13 limit winnings earned while participating in the promotion or bonus.

14

809 KAR 10:002E

READ AND APPROVED



Jonathan Rabinowitz
Chair, Kentucky Horse Racing Commission

7/10/23

Date



Ray Perry
Secretary, Public Protection Cabinet

7-10-23

Date

PUBLIC HEARING AND PUBLIC 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

Title: General Counsel

Address: 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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

809 KAR 10:002

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation specifies standards for sports wagering in Kentucky related to authorized and prohibited sporting events, types of wagers, and data sources for sports wagering.

(b) The necessity of this administrative regulation: This regulation is necessary to establish standards for sports wagering in Kentucky, including authorized and prohibited sporting events and types of wagers and data sources for sports wagering.
jennifer.wolsing@ky.gov

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.260 requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." KRS 230.808 lists the categories of sporting events that may be wagered upon and permits a sports governing body to submit a request to the commission to restrict, limit, or exclude a type, form, or category of sports wagering.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of the statutes by establishing standards for sports wagering in Kentucky, including authorized and prohibited sporting events and types of wagers and data sources for sports wagering.

(a) What this administrative regulation does: This regulation specifies standards for sports wagering in Kentucky related to authorized and prohibited sporting events, types of wagers, and data sources for sports wagering.

(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: This is a new regulation. KRS 230.361 states the "racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system...." KRS 230.808 lists the categories of sporting events that may be wagered upon and permits a sports governing body to submit a request to the commission to restrict, limit, or exclude a type, form, or category of sports wagering.

(b) The necessity of the amendment to this administrative regulation: This is a new regulation. including authorized and prohibited sporting events and types of wagers and data sources for sports wagering.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new regulation.

(a) How the amendment will change this existing administrative regulation: This is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects the licensed tracks that apply for and receive a license to conduct sports wagering in the Commonwealth. There are currently nine (9) licensed tracks operating in the

Commonwealth. Each track is allowed to contract with up to three (3) service providers. Therefore, up to 27 service providers may be affected by this regulation. Additionally, there are an unknown number of patrons who will choose to engage in sports wagering. Sports Governing Bodies also may be affected by this regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects the licensed tracks that apply for and receive a license to conduct sports wagering in the Commonwealth. There are currently nine (9) licensed tracks operating in the Commonwealth. Each track is allowed to contract with up to three (3) service providers. Therefore, up to 27 service providers may be affected by this regulation. Additionally, there are an unknown number of patrons who will choose to engage in sports wagering. Sports Governing Bodies also may be affected by this regulation.

(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: Licensed tracks and service providers offering sports wagering must observe the regulatory requirements when offering wagers. Sports Governing Bodies must follow the regulatory requirements to request to restrict, limit, or exclude a certain type, form, or category of sports wagering.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance costs are uncertain, but licensed tracks and service providers offering sports wagering are likely to incur costs to comply with the regulations. Sports Governing Bodies may incur costs to comply with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensed tracks and service providers will benefit from having clear standards for sports wagering. Kentuckians will benefit from the effective administration of sports wagering. Sports Governing Bodies will have the opportunity to request the commission restrict certain types, forms, or categories of sports wagering.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensed tracks and service providers will benefit from having clear standards for sports wagering. Kentuckians will benefit from the effective administration of sports wagering. Sports Governing Bodies will have the opportunity to request the commission restrict certain types, forms, or categories of sports wagering.

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

(a) Initially: It is estimated that the commission will spend approximately \$2.4 million to implement sports wagering in Kentucky in the first year.

(b) On a continuing basis: It is further estimated that the commission will spend approximately \$1.2 million annually to continue regulating sports wagering in Kentucky on a yearly basis. (a) Initially: It is estimated that the commission will spend approximately \$2.4 million to implement sports wagering in Kentucky in the first year.

(b) On a continuing basis: It is further estimated that the commission will spend approximately \$1.2 million annually to continue regulating sports wagering in Kentucky on a yearly basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding to implement and enforce sports wagering in Kentucky will come from the sports wagering administrative fund, as established in KRS 230.817.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding to implement and enforce sports wagering in Kentucky will come from the sports wagering administrative fund, as established in KRS 230.817.

(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.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any new fees or increase any current fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied, because this amended regulation will apply similarly to all similarly situated entities in an equal manner.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied, because this amended regulation will apply similarly to all similarly situated entities in an equal manner.

FISCAL NOTE

809 KAR 10:002

Contact Person: Jennifer Wolsing

Phone: (859) 246-2040

Email: jennifer.wolsing@ky.gov

(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 affected by this administrative regulation.

(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 affected 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 230.260(16), KRS 230.361, and KRS 230.808 require or authorize the actions taken 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 230.260(16), KRS 230.361, and KRS 230.808 require or authorize the actions taken by this regulation.

(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 will not generate revenue during 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 regulation will not generate revenue during subsequent years.

(c) How much will it cost to administer this program for the first year? It is estimated that the commission will spend approximately \$2.4 million in the first year to implement sports wagering in Kentucky.

(c) How much will it cost to administer this program for the first year? It is estimated that the commission will spend approximately \$2.4 million in the first year to implement sports wagering in Kentucky.

(d) How much will it cost to administer this program for subsequent years? It is further estimated that the commission will spend approximately \$1.2 million annually to continue regulating sports wagering in Kentucky in 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 (+/-): See answers to (c) and (d) above.

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 expected to generate cost savings for the first year.

(d) How much will it cost the regulated entities for subsequent years? Licensed tracks and service providers offering sports wagering and Sports Governing Bodies may incur costs to ensure compliance with the regulations.

(c) How much will it cost the regulated entities for the first year? Licensed tracks and service providers offering sports wagering and Sports Governing Bodies may incur costs to ensure compliance with the regulations.

(d) How much will it cost the regulated entities for subsequent years? Licensed tracks and service providers offering sports wagering and Sports Governing Bodies may incur costs to ensure compliance with the regulations.

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 (+/-): Licensed tracks and service providers offering sports wagering and Sports Governing Bodies may incur costs to ensure compliance with regulations.

(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 regulation is not anticipated to have a major economic impact on Kentucky for the reasons stated above.

(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 regulation is not anticipated to have a major economic impact on Kentucky for the reasons stated above.