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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**.

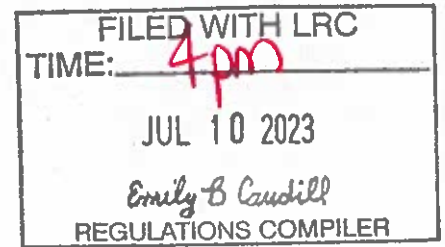
**Ordinary regulation**

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



1 PUBLIC PROTECTION CABINET

2 KENTUCKY HORSE RACING COMMISSION

3 New administrative regulation

4 809 KAR 10:006. <sup>JE</sup> Audit and Internal Control Standards

5 RELATES TO: KRS Chapter 230

6 STATUTORY AUTHORITY: KRS 230.260(16), KRS 230.811(2)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260(16)(a) requires the  
8 racing commission to promulgate regulations to establish standards related to sports  
9 wagering, including standards for “maintaining and auditing books and financial records,  
10 securely maintaining records of bets and wagers, integrity requirements for sports  
11 wagering and related data,...surveillance and monitoring systems, and other reasonable  
12 technical criteria related to conducting sports wagering.” KRS 230.811(2) requires tracks  
13 and service providers to “comply with the standards established by the racing commission  
14 . . . to ensure the integrity of the system of sports wagering.” This administrative  
15 regulation establishes internal control standards, including administration and accounting  
16 controls, and specifies certain duties to permit access to the racing commission of  
17 information and records, record retention, and reporting requirements.

18 Section 1. Internal controls.

19 Before beginning operations, a Licensee shall submit its administrative and  
20 accounting controls, in detail, in a system of Internal Controls for racing commission  
21 review and approval. The racing commission or its designee may perform any inspection

1 necessary in order to determine conformance with the approved Internal Controls.

2 (1) Amendments to any portion of the Internal Controls shall be submitted to the  
3 racing commission for approval. If, within thirty (30) calendar days the racing commission  
4 has not approved, denied, or otherwise provided written notice, a Licensee may  
5 implement the amended internal controls as submitted with the racing commission  
6 retaining its authority to require further amendment, approval, or denial.

7 (a) The racing commission may approve, deny, or require a revision to the  
8 amendment to the Internal Controls. If the Licensee is notified of a required revision, the  
9 Licensee shall address the revision within fifteen (15) calendar days, unless otherwise  
10 required by the commission.

11 (b) If the racing commission requests additional information, clarification, or  
12 revision of an amendment to the Internal Controls and the Licensee fails to satisfy the  
13 request within thirty (30) calendar days after the racing commission submits the request,  
14 the racing commission shall consider the amendment denied and it cannot be  
15 implemented or, if previously implemented, the Licensee shall cease implementation of  
16 that amendment within fifteen (15) calendar days. If the Licensee subsequently wants to  
17 pursue the amendment, it shall resubmit the request along with the additional information  
18 previously requested by the racing commission.

19 (2) In an emergency, the Licensee may temporarily amend their Internal Controls.  
20 The racing commission or its designee shall be notified immediately that an emergency  
21 exists before the Licensee temporarily amends its Internal Controls due to an emergency.  
22 The Licensee shall submit the temporary emergency amendment of the Internal Controls  
23 to the racing commission or its designee within twenty-four (24) hours of the amendment.

1 The submission shall include the detailed emergency procedures that will be implemented  
2 and the time period the emergency procedures will be temporarily in place. Any concerns  
3 the racing commission has with the submission shall be addressed with the Licensee  
4 promptly.

5 (3) The Internal Controls shall include a detailed narrative description of the  
6 administrative and accounting procedures designed to satisfy the requirements of Title  
7 809 of the Kentucky Administrative Regulations, including the following:

8 (a) Reliable accounting controls, including the standardization of forms and  
9 definition of terms to be used in the sports wagering operations;

10 (b) Reporting controls which shall include policies and procedures for the timely  
11 reporting of standard financial and statistical information in accordance with this  
12 regulation;

13 (c) Access controls which include, as their primary objective, the safeguarding of  
14 company assets;

15 (d) Tables of organization, which shall provide for:

16 1. A system of personnel and chain of command which permits management and  
17 supervisory personnel to be held accountable for actions or omissions within their areas  
18 of responsibility;

19 2. The segregation of functions that are incompatible with separation of duties, so  
20 that no employee is in a position both to commit an error or to perpetrate a fraud and to  
21 conceal the error or fraud in the normal course of their duties;

22 3. Supervisory positions which permit the authorization or supervision of necessary  
23 transactions at all relevant times; and

1           4. Areas of responsibility which are not so extensive as to be impractical for one  
2 person to monitor.

3           (e) A jobs compendium detailing job descriptions, chains of command, and lines  
4 of authority for all personnel engaged in the operation of Sports Wagering. The Licensee  
5 shall maintain and update the jobs compendium on a regular basis, but at least annually;

6           (f) An infrastructure and information security program; and

7           (g) All wagering procedures and practices specified within the GLI-33 Standards.

8           (5) To the extent a Service Provider is involved in or provides any of the internal  
9 controls required in this Chapter, the Licensee's Internal Controls shall document the  
10 roles and responsibilities of the Service Provider and shall include procedures to evaluate  
11 the adequacy of and monitor compliance with the Service Provider's Internal Controls.

12           (6) The Licensee shall stamp or otherwise mark each page of the Internal Controls  
13 submitted to the racing commission with the word "CONFIDENTIAL" if the Licensee does  
14 not believe the material submitted should be subject to public disclosure.

15           (7) If a Licensee intends to utilize any new technology not identified in its initial  
16 proposal, it shall submit the changes to its Internal Controls to incorporate the use of any  
17 such new technology to the racing commission for approval.

18           (8) If the racing commission determines that the Internal Controls of the Licensee  
19 do not comply with the requirements of Title 809 of the Kentucky Administrative  
20 Regulations, the racing commission shall notify the Licensee in writing. Within fifteen (15)  
21 calendar days after receiving the notification, the Licensee shall amend its Internal  
22 Controls accordingly and shall submit, for racing commission approval, a copy of the  
23 written Internal Controls, as amended, and a description of any other remedial measure

1 taken.

2 Section 2. Information Security Responsibilities.

3 The Internal Controls shall ensure that an information security program is  
4 effectively implemented, and information security function responsibilities are effectively  
5 allocated.

6 (1) The Licensee shall implement, maintain, and comply with a comprehensive  
7 information security program, the purpose of which shall be to take reasonable steps to  
8 protect the confidentiality, integrity, and availability of Personally Identifiable Information  
9 of individuals who place a Sports Wager with the Licensee.

10 (2) The Licensee's information security program shall contain administrative,  
11 technical, and physical safeguards appropriate to the size, complexity, nature, and scope  
12 of the operations, and the sensitivity of the Personally Identifiable Information owned,  
13 licensed, maintained, handled, or otherwise in the possession of the Licensee.

14 (3) A Licensee's information security forum, data privacy committee or other similar  
15 organizational structure comprised of senior managers shall be formally established to  
16 monitor and review the information security program to ensure its continuing suitability,  
17 adequacy, and effectiveness, maintain formal minutes of meetings, and convene at least  
18 every six months.

19 (4) A Licensee's information security department shall exist that is responsible for  
20 developing a security strategy in accordance with the overall operation. The information  
21 security department will subsequently work with the other departments to implement the  
22 associated action plans. It shall be involved in reviewing all tasks and processes that are  
23 necessary from the security perspective for the Licensee, including the protection of

1 information and data, communications, physical, virtual, personnel, and overall business  
2 operational security.

3 (5) The Licensee's information security department shall report to no lower than  
4 executive level management and shall be independent of the IT department with regard  
5 to the management of security risk.

6 (6) The Licensee's information security department shall have the competencies  
7 and be sufficiently empowered and shall have access to all necessary resources to  
8 enable the adequate assessment, management, and reduction of risk.

9 (7) The Licensee's chief security officer or equivalent head of the information  
10 security department shall be a full member of the information security forum and be  
11 responsible for recommending information security policies and changes.

12 Section 3. Accounting Records.

13 Licensees shall maintain complete, accurate, and legible records of all financial  
14 transactions for five (5) years, including transactions pertaining to revenues, expenses,  
15 assets, liabilities, and equity in conformance with generally accepted accounting  
16 principles. The Licensee's financial transaction reports shall be in compliance with GLI-  
17 33 Standards, unless otherwise permitted by the commission.

18 (1) The accounting records shall be maintained according to GLI-33 Standards,  
19 unless otherwise permitted by the commission. The detailed subsidiary records shall  
20 include:

21 (a) Detailed general ledger accounts identifying all revenue, expenses, assets,  
22 liabilities, and equity;

23 (b) A record of all investments, advances, loans, and accounts receivable balances

1 due the establishment;

2 (c) A record of all loans and other accounts payable;

3 (d) A record of all accounts receivable written off as uncollectible;

4 (e) Journal entries prepared;

5 (f) Tax work papers used in preparation of any state or federal tax return if  
6 applicable;

7 (g) Records supporting the accumulation of the costs for complimentary services  
8 and items. A complimentary service or item provided to individuals in the normal course  
9 of a Sports Wagering business shall be recorded in an amount based upon the full retail  
10 price normally charged for the service or item or as is otherwise consistent with generally  
11 accepted accounting principles; and

12 (h) Records required by the Internal Controls.

13 (2) The Licensee shall maintain all records supporting the Adjusted Gross  
14 Revenue for five (5) years.

15 (3) If a Licensee fails to maintain the records used by it to calculate the Adjusted  
16 Gross Revenue, the racing commission may compute and determine the amount upon  
17 the basis of an audit conducted by the racing commission using available information.

18 Section 4. Financial Audits.

19 Upon application, and annually thereafter, each Licensee shall submit to the racing  
20 commission, within ninety (90) calendar days of the Licensee's fiscal year end, its  
21 financial audit for that fiscal year.

22 (1) The Licensee shall operate in conformity with financial audit conditions  
23 established in the license conditions issued by the racing commission pursuant to KRS



1 230.290(3).

2 (2) Upon request by the commission, the Licensee shall submit pro forma  
3 statements that present projected or estimated financial performance, assets, and  
4 liabilities. These pro forma statements shall include:

5 (a) Pro Forma Balance Sheet: A projected or estimated balance sheet outlining the  
6 entity's assets, liabilities, and equity at a specific point in time;

7 (b) Pro Forma Income Statement: A projected or estimated income statement  
8 presenting the entity's anticipated revenues, expenses, and net income for a specific  
9 period;

10 (c) Pro Forma Cash Flow Statement: A projected or estimated cash flow statement  
11 demonstrating the expected cash inflows and outflows of the entity over a specific period;

12 (d) Pro Forma Statement of Retained Earnings: A projected or estimated statement  
13 reflecting changes in the entity's retained earnings over a specific period, considering  
14 projected net income, dividends, and other adjustments; and

15 (e) Notes for Financial Statements: Explanatory notes providing additional  
16 information and disclosures related to the pro forma statements, including significant  
17 assumptions, methodologies used, and any other relevant details.

18 (3) If audited financial statements are not available, the Licensee shall provide  
19 audited financial statements of its parent company and the Licensee's unaudited financial  
20 statements, which document the Licensee's financial performance, assets, and liabilities,  
21 including:

22 (a) A balance sheet;

23 (b) An income statement;

- 1 (c) A cash flow statement;
- 2 (d) A statement of retained earnings; and
- 3 (e) Notes for financial statements.

4 (4) The pro forma statements shall be clearly labeled as unaudited and based on  
5 management's estimates and assumptions. These statements may serve as temporary  
6 financial documentation until audited financial statements become available.

7 (5) The financial audit shall be performed in accordance with generally accepted  
8 accounting principles by an independent certified public accountant currently authorized  
9 to practice in Kentucky, and shall contain the opinion of the independent certified public  
10 accountant as to its fair preparation and presentation in accordance with generally  
11 accepted accounting principles.

12 (6) The racing commission shall determine the number of copies of audits or  
13 reports required under this procedure. The audits or reports shall be received by the  
14 racing commission or postmarked no later than the required filing date.

15 (7) The reporting year-end of the Licensee is December 31 of each year, unless  
16 otherwise approved by the racing commission.

17 Section 5. Retention, Storage, and Destruction of Records.

18 The Internal Controls shall include a records retention schedule, and provisions  
19 related to the storage and destruction of records that incorporates the following  
20 provisions, without limitation:

21 (1) Each Licensee shall maintain, in a place secure from theft, loss, or destruction,  
22 adequate records of its business and accounting operations.

23 (2) A Licensee shall make the records available to the racing commission, upon

1 request, within a time provided for by the racing commission. A Licensee shall retain the  
2 records for not less than five (5) years.

3 (3) A Licensee shall keep and maintain, in a manner and form approved by the  
4 racing commission, accurate, complete, and legible records of any books, records, or  
5 documents pertaining to, prepared in, or generated by, the Licensee.

6 (4) A Licensee shall organize and index all required records in a manner that  
7 enables the racing commission to locate, inspect, review, and analyze the records with  
8 reasonable ease and efficiency.

9 (5) A Licensee shall notify the racing commission in writing at least sixty (60)  
10 calendar days prior to the scheduled destruction of any record required to be retained in  
11 accordance with this section, if within the five (5) year record retention requirement. Such  
12 notice shall list each type of record scheduled for destruction, including a description  
13 sufficient to identify the records included; the retention period; and the date of destruction.  
14 If documents are to be destroyed in the normal course of business in accordance with  
15 document retention policies previously set forth in the Internal Controls approved by the  
16 racing commission, no notice to the racing commission shall be required.

17 (6) The racing commission may prohibit the destruction of any record required to  
18 be retained in accordance with this section by so notifying the Licensee in writing within  
19 forty-five (45) calendar days of receipt of the notice of destruction pursuant to subsection  
20 0 or within the specified retention period. Such original record may thereafter be  
21 destroyed only upon notice from the racing commission, or by order of the racing  
22 commission upon the petition of the Licensee, or by the racing commission on its own  
23 initiative.

1 (7) The Licensee may use the services of a disposal company for the destruction  
2 of any records required to be retained in accordance with this section.

3 Section 6. Reserve Requirement

4 (1) The Internal Controls shall include a plan to maintain and protect sufficient  
5 funds to conduct Sports Wagering at all times through a reserve in the amount necessary  
6 to ensure the security of funds held in Sports Wagering Accounts and the ability to cover  
7 the outstanding Sports Wagering liability.

8 (a) The reserve shall be in the form of cash, cash equivalents, payment processor  
9 receivables, payment processor reserves, an irrevocable letter of credit, a bond, or a  
10 combination thereof.

11 (b) The reserve shall be not less than the greater of twenty-five thousand dollars  
12 (\$25,000) or the sum of the following amounts:

- 13 1. The daily ending cashable balance of all Sports Wagering Accounts;
- 14 2. Pending withdrawals;
- 15 3. Amounts accepted by the Licensee on Sports Wagers whose outcomes have  
16 not been determined; and
- 17 4. Amounts owed but unpaid on winning Sports Wagers.

18 (c) Amounts available to patrons for wagering that are not redeemable for cash  
19 may be excluded from the reserve computation.

20 (2) A Licensee shall have access to all Sports Wagering Account and transaction  
21 data to ensure the amount of its reserve is sufficient. Unless otherwise directed by the  
22 racing commission, a Licensee shall file a monthly attestation with the racing commission,  
23 which states that funds have been safeguarded under this procedure.

1 (3) The racing commission may audit a Licensee's reserve at any time and may  
2 direct a Licensee to take any action necessary to ensure the requirements of this section  
3 are met.

4 Section 7. Risk Management Framework

5 A Licensee shall implement a risk management framework. This framework may  
6 be provided in-house by a unit capable of performing this function with appropriate  
7 segregation of functions and reporting duties, or by a third-party entity.

8 (1) The Internal Controls shall contain a description of the risk management  
9 framework, including:

10 (a) Automated and manual risk management procedures;

11 (b) Employee management, including access controls and segregation of duties;

12 (c) Information regarding identifying and reporting fraud and suspicious conduct;

13 (d) Controls ensuring regulatory compliance;

14 (e) Description of Anti-Money Laundering (AML) compliance standards;

15 (f) Controls for accepting wagers and issuing pay outs in excess of ten thousand  
16 dollars (\$10,000);

17 (g) Controls for accepting multiple wagers from one patron in a 24-hour cycle,  
18 including a process to identify patron structuring of wagers to circumvent recording and  
19 reporting requirements;

20 (h) Description of all software applications that comprise the Sports Wagering  
21 System;

22 (i) Description of all types of Sports Wagers available to be offered by the  
23 Licensee;

1 (j) Description of the procedures to prevent past posting of wagers;

2 (k) Description of the procedures to prevent individuals from placing wagers as  
3 agents or proxies for other individuals; and

4 (l) Description of all integrated third-party platforms.

5 (2) A Licensee shall file with the racing commission a report of any error that occurs  
6 in offering an event or wager or if an unapproved Sporting Event or Type of Wager is  
7 offered to the public.

#### 8 Section 8. Taxation Requirements

9 (1) The Internal Controls shall ensure compliance with all Internal Revenue Service  
10 (IRS) requirements and the Licensee shall provide for the withholding or reporting of  
11 income tax of patrons as required by applicable state or federal law.

12 (2) The Licensee shall disclose potential tax liabilities to patrons at the time of  
13 award of any Sports Wagering payouts in excess of limits set by the IRS. Such disclosures  
14 will include a statement that the obligation to pay applicable taxes on payouts is the  
15 responsibility of the patron and that failure to pay applicable tax liabilities may result in  
16 civil penalties or criminal liability. Upon written request, the Licensee shall provide patrons  
17 with summarized tax information on Sports Wagering activities.

#### 18 Section 9. Reports of Suspicious Transactions.

19 (1) A transaction requires reporting under the terms of this section if it is conducted  
20 or attempted, by, at, or through a Licensee, and involves or aggregates to at least five  
21 thousand dollars (\$5,000) in funds or other assets, and the Licensee knows, suspects, or  
22 has reason to suspect that the transaction or a pattern of transactions of which the  
23 transaction is a part:

1 (a) Involves funds derived from illegal activity or is intended or conducted in order  
2 to hide or disguise funds or assets derived from illegal activity (including, without  
3 limitation, the ownership, nature, source, location, or control of such funds or assets) as  
4 part of a plan to violate or evade any federal law or regulation or to avoid any transaction  
5 reporting requirement under federal law or regulation or of the racing commission.

6 (b) Is designed, whether through structuring or other means, to evade any  
7 requirements of these regulations or of any other regulations promulgated under the Bank  
8 Secrecy Act;

9 (c) Has no business or apparent lawful purpose or is not the sort in which the  
10 particular patron would normally be expected to engage, and the Licensee knows of no  
11 reasonable explanation for the transaction after examining the available facts, including  
12 the background and possible purpose of the transaction; or

13 (d) Involves use of the licensee to facilitate criminal activity.

14 (2) A Licensee may also file a report of any suspicious transaction that it believes  
15 is relevant to the possible violation of any law or regulation but whose reporting is not  
16 required by this section.

17 (3) The report shall be filed no later than thirty (30) calendar days after the initial  
18 detection by the Licensee of facts that may constitute a basis for filing such a report. In  
19 situations involving violations that require immediate attention, the Licensee shall  
20 immediately notify the racing commission in addition to timely filing a report.

21 (4) A Licensee shall maintain a copy of any report filed and the original or business  
22 record equivalent of any supporting documentation for a period of five (5) years from the  
23 date of filing the report. Supporting documentation shall be identified, and maintained by

1 the Licensee as such, and shall be deemed to have been filed with the report. A Licensee  
2 shall make all supporting documentation available to the racing commission and any  
3 appropriate law enforcement agencies upon request.

4 (5) Unless otherwise required by this Chapter, other law, or court order, Licensee  
5 and its directors, officers, employees, or agents who file a report pursuant to this  
6 regulation shall not notify any person involved in the transaction that the transaction has  
7 been reported. Any report filed with the racing commission is confidential and may be  
8 disclosed by the racing commission in the necessary administration of their duties and  
9 responsibilities under the Act or as otherwise required by law or Court Order.

10 Section 10. Anti-Money Laundering (AML) Monitoring

11 The Internal Controls shall implement AML procedures and policies that  
12 adequately address the risks posed by Sports Wagering for the potential of money  
13 laundering and terrorist financing. The AML procedures and policies shall provide for the  
14 following:

15 (1) Up to date training of employees in the identification of unusual or suspicious  
16 transactions;

17 (2) Assigning an individual or individuals to be responsible for all areas of AML by  
18 the Licensee including reporting unusual or suspicious transactions;

19 (3) Use of any automated data processing systems to aid in assuring compliance;  
20 and

21 (4) Periodic independent tests for compliance with a scope and frequency as  
22 required by the racing commission. Logs of all tests shall be maintained for five (5) years.

23 Section 11. Integrity Monitoring and Suspicious Behavior



1 A Licensee shall implement an integrity monitoring system. This solution may be  
2 provided in-house by a unit capable of performing this function with appropriate  
3 segregation of functions and reporting duties, or by a third-party entity.

4 (1) The Internal Controls shall include provisions for a Licensee to report to the  
5 racing commission as soon as practicable, but in no event longer than forty-eight (48)  
6 hours after discovery:

7 (a) Any information regarding irregularities in volume or changes in odds that could  
8 signal suspicious activities which were identified;

9 (b) Any information relating to criminal or disciplinary proceedings commenced  
10 against the Licensee in connection with its operations;

11 (c) Any information relating to the following, which shall also be reported to the  
12 relevant Sports Governing Body or equivalent:

13 1. Abnormal Wagering Activity or patterns that may indicate a concern with the  
14 integrity of a Sporting Event or events;

15 2. Any potential breach of the internal rules and codes of conduct pertaining to  
16 Sports Wagering of a relevant Sports Governing Body or equivalent, to the extent the  
17 Licensee has actual knowledge of the potential breach; and

18 3. Any other conduct that corrupts a Sports Wagering outcome of a Sporting Event  
19 or events for purposes of financial gain, including match-fixing; or

20 (d) Any information relating to Suspicious or Illegal Wagering Activities, including  
21 the use of funds derived from illegal activity, the placement of wagers to conceal or  
22 launder funds derived from illegal activity, the use of agents to place wagers, and the use  
23 of false identification in placing wagers.

1 (2) A Licensee shall maintain the confidentiality of information provided by a Sports  
2 Governing Body or equivalent for purposes of investigating or preventing the conduct  
3 described in subsection 00, unless disclosure is required by the Act, the racing  
4 commission, or other law or court order, or unless the Sports Governing Body or  
5 equivalent consents to its disclosure in writing.

6 (3) A Licensee receiving a report of Suspicious or Illegal Wagering Activity shall be  
7 permitted to suspend wagering on Sporting Events or Types of Wager related to the report  
8 and may place a hold on suspicious wagers while investigating, but may only cancel or  
9 void Sports Wagers related to the report after receiving written approval from the racing  
10 commission or its designee.

11 (4) Upon request by the racing commission or its designee, a Licensee shall  
12 provide remote, read-only access and the necessary software and hardware for the racing  
13 commission to evaluate or monitor the Sports Wagering System. If requested, the  
14 Licensee shall provide the racing commission with remote access or other approved  
15 mechanism, which shall provide:

16 (a) All reports of Abnormal Wagering Activity;

17 (b) Whether the Abnormal Wagering Activity was subsequently determined to be  
18 Suspicious or Illegal Wagering Activity;

19 (c) All reports deemed Suspicious or Illegal Wagering Activity at the outset; and

20 (d) The actions taken by the Licensee according to its integrity monitoring system.

21 (5) Nothing in this section shall require a Licensee to provide any information in  
22 violation of federal, state or local law or regulation, including laws and regulations relating  
23 to privacy and Personally Identifiable Information.

1 (6) A Licensee shall maintain records of all Integrity Monitoring services and  
2 activities, including all reports and Suspicious or Illegal Wagering Activity and any  
3 supporting documentation, for a minimum of five (5) years after a Sporting Event  
4 occurs. The Licensee shall disclose these records to the racing commission upon  
5 request.

6 (7) The racing commission may require a Licensee to provide any hardware or  
7 software necessary to the racing commission, or to an independent testing laboratory  
8 approved by the racing commission, for evaluation of the Licensee's Sports Wagering  
9 offering or to conduct further monitoring of Sports Wagering data.

10 Section 12. Personally Identifiable Information Security.

11 (1) Any information obtained in respect to a patron, including Confidential  
12 Information, Personally Identifiable Information and authentication credentials for a  
13 Sports Wagering Account, shall be collected in compliance with the Licensee's privacy  
14 policies set forth in its Internal Controls. Both Personally Identifiable Information and the  
15 Sports Wagering Account funds shall be considered as critical assets for the purposes of  
16 risk assessment.

17 (2) No employee or agent of the Licensee shall divulge any Confidential  
18 Information or Personally Identifiable Information related to a patron, the placing of any  
19 wager, or any other sensitive information related to the operation of the Licensee without  
20 the consent of the patron, except as required by this section, the racing commission, and  
21 as otherwise required by state or federal law.

22 (3) The Internal Controls shall include procedures for the security and sharing of  
23 Confidential Information, Personally Identifiable Information, funds in a Sports Wagering

1 Account, and other sensitive information as required by the racing commission, including:

2 (a) The designation and identification of one or more employees having primary  
3 responsibility for the design, implementation, and ongoing evaluation of such procedures  
4 and practices;

5 (b) The procedures to be used to determine the nature and scope of all information  
6 collected, the locations in which such information is stored, and the storage devices on  
7 which such information may be recorded for purposes of storage or transfer;

8 (c) The measures to be utilized to protect information from unauthorized access;  
9 and

10 (d) The procedures to be used if a breach of data security has occurred, including  
11 required notification to the racing commission.

## 12 Section 13. Complaints Pertaining to Sports Wagering

13 The Internal Controls shall provide procedures for receiving, investigating,  
14 responding to, and reporting on complaints by patrons.

15 (1) When a patron makes a complaint, the Licensee shall promptly issue a  
16 complaint report, setting out:

17 (a) The name of the complainant;

18 (b) The nature of the complaint;

19 (c) The name of the persons, if any against whom the complaint was made;

20 (d) The date of the complaint; and

21 (e) The action taken or proposed to be taken, if any, by the Licensee.

22 (2) All complaints received by a Licensee from a patron and the Licensee's  
23 responses to complaints shall be retained for at least five (5) years and made available

1 to the racing commission within ten (10) business days of any request by the racing  
2 commission.

3 (3) A Licensee shall investigate and attempt to resolve all complaints with the  
4 patron.

#### 5 Section 14. Prohibition of Credit Extension

6 The Internal Controls shall include controls relating to not allowing the acceptance  
7 of a Sports Wager or deposit of funds into a Sports Wagering Account that is derived from  
8 the extension of credit by affiliates or agents of the Licensee. For purposes of this section,  
9 credit shall not be deemed to have been extended where, although funds have been  
10 deposited into a Sports Wagering Account, the Licensee is awaiting actual receipt of such  
11 funds in the ordinary course of business.

12 (1) Credit providers such as small amount credit contracts shall not be advertised  
13 or marketed to patrons.

14 (2) A patron shall not be referred to a credit provider to finance their Sports  
15 Wagering activity.

16 (3) Personally Identifiable Information related to a patron shall not be provided to  
17 any credit provider.

#### 18 Section 15. Prohibited Patrons

19 The Internal Controls shall include commercially and technologically reasonable  
20 measures to prevent access to Sports Wagering by any Prohibited Patrons at a Licensed  
21 Premises and online via website or mobile application.

22 (1) If a Licensee detects, or is notified of, an individual suspected of being a  
23 Prohibited Patron who had engaged or is engaging in Prohibited Sports Wagering, the

1 Licensee shall use reasonable measures to verify whether the individual is prohibited or  
2 not.

3 (2) If the Licensee is able to establish, by reasonable measures, that the individual  
4 is prohibited, the Licensee shall cancel a Sports Wager.

#### 5 Section 16. Layoff Wagers

6 The Internal Controls shall include procedures for a Licensee to accept Layoff Wagers  
7 placed by other Licensees and place Layoff Wagers with other Licensees for the purpose  
8 of offsetting Sports Wagers.

9 (1) The Licensee placing a Layoff Wager shall inform the Licensee accepting the  
10 wager that the wager is being placed by a Licensee and shall disclose their identity.

11 (2) A Licensee may decline to accept a Layoff Wager in its sole discretion.

12 (3) Layoff Wagers shall be reported to the racing commission promptly.

#### 13 Section 17. Reports of Licensees

14 The Internal Controls shall detail the Licensee's ability to prepare reports  
15 considered necessary by the racing commission including reports supporting Adjusted  
16 Gross Revenue, wagering liability, and payouts. The Licensee shall timely file with the  
17 commission any additional reports required by the Act or by any regulation prescribed by  
18 the racing commission. Any information provided under this section is confidential and  
19 proprietary and is exempt from disclosure unless disclosure is required by this Chapter,  
20 by other law, or by court order.

#### 21 Section 18. Racing Commission Access to Sports Wagering Data

22 The Internal Controls shall detail the controls to assure that all Sports Wagering  
23 data the racing commission requires to be maintained under the Act or Title 809 of the

1 Kentucky Administrative Regulations is appropriately segregated and controlled to  
2 prevent unauthorized access.

3 (1) Licensees shall provide the racing commission with access to all such data,  
4 upon request and with reasonable notice.

5 (2) Licensees shall retain such data for a minimum of five (5) years.

6 Section 19. Independent Audit of Internal Controls.

7 Licensees shall have their Internal Controls independently audited at least once  
8 every two (2) years with the results documented in a written report. This includes internal  
9 controls conducted by an affiliate on behalf of the Licensee. Reports shall be maintained  
10 and available to the racing commission for five (5) years.

11 (1) Such independent audits may be conducted by the racing commission, or a  
12 third-party contractor approved by the racing commission. The racing commission may,  
13 in its discretion, approve the Licensee to complete an internal audit, if the Licensee uses  
14 an independent auditing team to serve as a third-party contractor for use in completing  
15 this audit.

16 (2) The racing commission or third-party contractor shall be responsible for  
17 auditing the Licensee's compliance with the Act and Title 809 of the Kentucky  
18 Administrative Regulations, the Wagering Procedures and Practices specified within the  
19 GLI-33 Standards, and the Internal Controls.

20 (3) Documentation shall be prepared to evidence all independent audit work  
21 performed as it relates to the requirements of this section, including all instances of  
22 noncompliance.

1 (4) Independent audit reports shall include objectives, procedures and scope,  
2 findings and conclusions, and recommendations.

3 (5) Independent audit findings shall be reported to management. Management  
4 shall be required to respond to the independent audit findings and the stated corrective  
5 measures to be taken to avoid recurrence of the audit exception. Such management  
6 responses shall be included in the final independent audit report.

7 (6) Follow-up observation and examinations shall be performed to verify that  
8 corrective action has been taken regarding all instances of noncompliance cited by the  
9 independent audits. The verification shall be performed within six (6) months following the  
10 date of notification.

11 (7) It is acceptable to reuse the results of prior audits conducted within the audit  
12 period by the same third-party contractor in another Sports Wagering jurisdiction. Such  
13 reuse shall be noted in the audit report. This reuse option does not include any internal  
14 controls unique to the Commonwealth, which will require new audits.



809 KAR 10:006

READ AND APPROVED



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Jonathan Rabinowitz  
Chair, Kentucky Horse Racing Commission

7/10/23  
Date



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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 September 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 September 30, 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](mailto:jennifer.wolsing@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

809 KAR 10:006

Contact Person: Jennifer Wolsing

Phone: (859) 246-2040

Email: jennifer.wolsing@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative action establishes auditing and internal control standards for sports wagering operators and service providers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish standards to ensure that sports wagering operators and service providers have internal protocols in place to ensure the integrity of their sports wagering systems.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.260(16)(a) requires the racing commission to promulgate regulations to establish standards related to sports wagering, including standards for "maintaining and auditing books and financial records, securely maintaining records of bets and wagers, integrity requirements for sports wagering and related data,...surveillance and monitoring systems, and other reasonable technical criteria related to conducting sports wagering." KRS 230.811(2) requires tracks and service providers to "comply with the standards established by the racing commission . . . to ensure the integrity of the system of sports wagering." KRS 230.260(16) requires the commission to "promulgate administrative regulations to establish . . . integrity requirements for sports wagering and related data."

(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 clear, objective auditing and internal control standards for sports wagering systems providers in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

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

(b) The necessity of the amendment to this administrative regulation: N/A. This is a new regulation.

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

(d) How the amendment will assist in the effective administration of the statutes: N/A. 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. Independent testing labs that certify these systems will be impacted by this regulation. Additionally, there is 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: Operators and service providers offering sports wagering must observe the regulatory requirements for audit and internal control. Sports Governing Bodies will receive information from Licensees based on the licensees' compliance with these standards.

(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, including the cost of paying independent labs to certify their systems. 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): Licensees will benefit from having clear standards for internal control and auditing related to sports wagering. Kentuckians will benefit from the effective administration of sports wagering and the assurance that sports wagering system providers are required to have internal measures to ensure the functionality and integrity of their systems. Sports Governing Bodies will receive knowledge of suspicious wagers and can react to ensure the integrity of their respective sports.

(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.

(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. The service providers will be required to pay the laboratories to test and certify their systems.

(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.

(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 10:006

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.

(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 230.811(2), and KR 230.260(16) 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.

(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 (+/-): Neutral

Other Explanation: N/A

(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 administrative regulation is not expected to generate cost savings for the regulated entities during the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation is not expected to generate cost savings for the regulated entities during subsequent years.

(c) How much will it cost the regulated entities for the first year? Licensees will likely incur costs to have their systems tested and certified by independent labs.

(d) How much will it cost the regulated entities for subsequent years? Licensees will likely incur costs to have their systems tested and certified by independent labs. 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 (+/-): Please see the answers to (c) and (d) above.

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)].* This regulation is not anticipated to have a major economic impact on Kentucky for the reasons stated above.