

FILED WITH LRC
TIME: 12:57 pm
JUN 24 2021
Emily B Caudill
REGULATIONS COMPILER

1 PUBLIC PROTECTION CABINET
2 Kentucky Horse Racing Commission
3 (Amendment)
4 810 KAR 4:040. Running of the race.

5 RELATES TO: KRS 230.215(2), 230.260(1)

6 STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8)
8 authorize the Kentucky Horse Racing Commission to promulgate administrative regulations
9 prescribing the conditions under which racing shall be conducted in Kentucky. This administrative
10 regulation sets forth the standards and requirements governing the running of a horse race.

11 Section 1. Post Time. Post time for the first race on each racing day shall be approved by
12 the commission. Post time for subsequent races on the same program shall be fixed by the pari-
13 mutuels~~[parimutuels]~~ manager. No race shall start after 11:55 p.m.

14 Section 2. Horses in paddock not to be touched. Only the following persons may touch a
15 horse while in the paddock:

- 16 (1) Licensed owner;
17 (2) Licensed trainer;
18 (3) Authorized stable personnel;
19 (4) Paddock judge;
20 (5) Horse identifier;
21 (6) Assigned valet;
22 (7) Steward;

1 (8) Farrier; [øæ]

2 (9) Outrider; or

3 (10) Jockey.

4 Section 3. Trainer Responsibility. The trainer shall be responsible for:

5 (1) Arrival in the paddock, at the time prescribed by the paddock judge, of each horse
6 entered;

7 (2) Supervising the saddling of each horse entered; and

8 (3) Providing his or her assistant trainer or another licensed trainer to serve as a substitute
9 if absent from a track where the trainer's horses are participating in races.

10 Section 4. Withdrawal of a Horse. A horse whose starting is mandatory shall run the course,
11 except that the stewards may order the withdrawal of a horse at any time up to the actual start of a
12 race.

13 Section 5. Walkover. If at the time for saddling, only one (1) horse, or horses owned by
14 only one (1) stable, will be weighed out, the horse or horses of single ownership shall be ridden
15 past the stewards' stand, go to the post, and then move over the course before determination of the
16 winner.

17 Section 6. Parade to the Post; Time.

18 (1) All horses shall parade and carry their declared weight from the paddock to the starting
19 post.

20 (a) The parade shall pass the stewards' stand.

21 (b) After passing the stewards' stand once, horses may break formation and canter, warm
22 up, or go as they please to the post.

1 (c) With the permission of the stewards, a horse may be excused from parading with the
2 other horses.

3 (2) The parade to the post shall not exceed twelve (12) minutes from the time the field
4 enters upon the track, except in cases of unavoidable delay.

5 (3) If a jockey is thrown on the way to the post:

6 (a) The jockey shall remount at the point at which thrown; or

7 (b) If the jockey is so injured as to require a substitute jockey, the horse shall be returned
8 to the paddock where the horse shall be remounted by a substitute jockey.

9 Section 7. Lead Pony. A horse may be led to the post by a lead pony. Lead ponies may be
10 excluded from the paddock or walking ring, at the discretion of the stewards.

11 Section 8. Control of Horses and Jockeys by Starter. Horses and jockeys shall be under the
12 control of the starter from the moment they enter the track until the race is started.

13 (1) The starter may grant a delay if an injury occurs to any jockey or if a jockey's equipment
14 malfunctions. During the delay, the stewards may require all jockeys to dismount.

15 (2) The starter shall unload the horses in the gate when instructed by the stewards if:

16 (a) A horse breaks through the gate or unseats its jockey after any of the field is loaded in
17 the starting gate; and

18 (b) The horse is not immediately taken in hand by the outrider and brought back for
19 reloading.

20 (3) The starter shall reload the horses in their proper order upon order of the stewards.

21 (4) The starter shall report all causes of delay to the stewards.

22 (5) A person other than the jockey, starter, or assistant starter shall not strike a horse or
23 attempt, by shouting or other means, to assist the horse in getting a start.

1 Section 9. Starting Gate. Races on the flat shall use a starting gate approved by the
2 commission unless exempted by the stewards. Exempted races shall not start until the assistant
3 starter has dropped the flag in answer to the starter.

4 Section 10. Horses Left at Post.

5 (1) If a door at the front of the starting gate fails to open properly and timely when the
6 starter dispatches the field, or if a horse has inadvertently not been loaded in the starting gate when
7 the field is dispatched, thereby causing the horse to be left at the post, the starter shall immediately
8 report the circumstance to the stewards who shall:

9 (a) Immediately post the "inquiry" sign;

10 (b) Advise the public to hold all pari-mutuel[~~parimutuel~~] tickets; and

11 (c) Determine, after consulting with the starter and viewing the race replay, whether or not
12 the horse was precluded from obtaining a fair start.

13 (2) If the stewards determine that the horse was precluded from obtaining a fair start, the
14 stewards shall rule the horse a nonstarter and shall order money wagered on the horse deducted
15 from the pari-mutuel[~~parimutuel~~] pool and refunded to holders of pari-mutuel[~~parimutuel~~] tickets
16 on the horse, unless the horse ruled a nonstarter is part of a pari-mutuel[~~mutuel~~] entry and another
17 horse in the entry is not left at the post, in which case there shall not be a pari-mutuel[~~parimutuel~~]
18 refund.

19 (3) Stakes fees for a ruled nonstarter shall be refunded to the owner.

20 (4) The starter may, in his or her discretion, place an unruly or fractious horse on the outside
21 of the starting gate and one (1) length behind the starting line. If the horse so stationed outside the
22 starting gate by the starter dwells or refuses to break with the field and is thereby left at the post,

1 there shall not be a refund of ~~pari-mutuel~~~~[parimutuel]~~ wagers on the horse nor refund of stakes
2 fees paid for the horse.

3 Section 11. Horses Failing to Finish. Any horse that starts in a race but does not cross the
4 finish line or is not ridden across the finish line by the jockey with whom it starts the race shall be
5 declared unplaced and shall receive no portion of the purse money.

6 Section 12. Fouls.

7 (1) A leading horse if clear is entitled to any part of the track.

8 (2) If a leading horse or any other horse in a race swerves or is ridden to either side so as
9 to interfere with, intimidate, or impede any other horse or jockey, or to cause the same result, this
10 action shall be deemed a foul.

11 (3) If a jockey strikes another horse or jockey, it is a foul.

12 (4) If, in the opinion of the stewards, a foul alters the finish of a race, an offending horse
13 may be disqualified by the stewards.

14 Section 13. Stewards to Determine Foul Riding.

15 (1) A jockey shall make a best effort to control and guide his or her mount in such a way
16 as not to cause a foul.

17 (2) The stewards shall take cognizance of riding that results in a foul, irrespective of
18 whether or not an objection is lodged.

19 (3) If, in the opinion of the stewards, a foul is committed as a result of a jockey not making
20 a best effort to control and guide his or her mount to avoid a foul, whether or not intentionally or
21 through carelessness or incompetence, the jockey may be penalized at the discretion of the
22 stewards.

23 Section 14. Horses to be Ridden Out.

1 (1) Every horse in every race shall be ridden so as to win or finish as near as possible to
2 first and demonstrate the best and fastest performance of which it is capable at the time, while in
3 compliance with Section 15 of this administrative regulation.

4 (2) A horse shall not be eased up without adequate cause, even if it has no apparent chance
5 to earn a portion of the purse money.

6 (3) A jockey who unnecessarily causes a horse to shorten stride may be penalized at the
7 discretion of the stewards.

8 (4) Stewards shall take cognizance of any marked reversal of form of a horse and shall
9 conduct inquiries of the licensed owner, licensed trainer, and all other persons connected with the
10 horse.

11 (5) If the stewards find that the horse was deliberately restrained or impeded in any way or
12 by any means so as not to win or finish as near as possible to first, any person found to have
13 contributed to that circumstance may be penalized at the discretion of the stewards.

14 Section 15. Use of Riding Crops.

15 (1) Although the use of a riding crop is not required, a jockey who uses a riding crop during
16 a race shall do so only in a manner consistent with exerting his or her best efforts to win.

17 (2) In any race in which a jockey will ride without a riding crop, an announcement of that
18 fact shall be made over the public address system.

19 (3) An electrical or mechanical device or other expedient designed to increase or retard the
20 speed of a horse, other than a riding crop approved by the stewards pursuant to 810 KAR 4:010,
21 Section 11 shall not be possessed by anyone, or applied by anyone to a horse at any time at a
22 location under the jurisdiction of the racing commission.

1 (4) A riding crop shall not be used on a two (2) year-old horse in races before April 1 of
2 each year.

3 (5) Allowable uses of a riding crop include the following:

4 (a) The riding crop may ~~shall only~~ be used at any time, without penalty, if, in the opinion
5 of the stewards, the riding crop is used to avoid a dangerous situation or preserve the safety of
6 other riders or horses in a race;

7 (b) If necessary during a race, a riding crop may be used in a backhanded or underhanded
8 fashion from the 3/8 pole to the finish line. This use will not be counted toward the use of the crop
9 six (6) times in the overhand fashion, as allowed in Section 15(6). At no point shall the use of the
10 crop rise above the rider's helmet ~~[for safety, correction, and encouragement.~~

11 ~~(6) A rider who uses];~~

12 (c) Tapping~~shall: (a) Show~~ the horse on the shoulder with the crop in the down position
13 while both hands are holding onto the reins~~[riding crop]~~ and both hands are touching the neck
14 of~~give~~ the horse; and

15 (d) Showing or waving the crop without contact with the horse and giving the horse time
16 to respond before striking the horse.~~;~~

17 (6) Use of~~(b) Having used~~ the riding crop to make contact with a horse to maintain focus
18 and concentration, to control the horse for safety of the horse and rider, or to encourage a horse is
19 allowed, with the following exceptions:

20 (a) Use of the crop in any manner, other than underhanded or backhanded as set forth in
21 Section 15(5)(b), or tapping on the shoulder as set forth in Section 15(5)(c), resulting in more than
22 six (6) times in the overhand manner;

1 (b) Use of the crop and making contact with the horse more than two (2) successive strikes
2 without allowing[, give] the horse a chance to respond.

3 (c) Use of the crop with the rider's wrist above helmet height;

4 (d) Use of the crop [~~(7)~~ A riding crop shall not be used to strike a horse:
5 ~~(a)]~~ on the head, flanks, or on any other part of its body other than the shoulders or
6 hindquarters;

7 (e) Use of the crop [~~hind-quarters except if necessary to control a horse;~~
8 ~~(b)]~~ during the post parade or after the finish of the race except if necessary to control the
9 horse;

10 (f) Excessive or brutal use of the crop causing injury to the horse [~~(e) Excessively or~~
11 brutally];

12 (g) Use of the crop [~~(d)~~] causing welts or breaks in the skin;

13 (h) Use of the crop [~~(e)~~] if the horse is clearly out of the race or has obtained its maximum
14 placing; and

15 (i) Use of the crop [~~(f) Persistently]~~ even though the horse is showing no response [~~under~~
16 the riding crop].

17 (7) [~~(8)] A riding crop shall not be used to strike another person.~~

18 (8) [~~(9)] After the race, a horse shall [~~may]~~ be subject to inspection by a racing official or~~
19 official veterinarian looking for cuts, welts, or bruises in the skin. Any adverse findings shall be
20 reported to the stewards.

21 (9) [~~(10)] Use of the crop during workouts shall be permitted so long as such use does not~~
22 violate section 6(c) through (i).

1 (11) The giving of instructions by any licensee that, if obeyed, would lead to a violation of
2 this section may result in disciplinary action also being taken against the licensee who gave the
3 instructions.

4 (12) Only padded/shock absorbing riding crops which have not been modified in any way
5 may be carried in a race.

6 (13) During a race, if a jockey rides in a manner contrary to this rule, the stewards shall
7 impose a minimum fine of \$500.00, a minimum suspension of three (3) days, or both, if in the
8 opinion of the stewards, the violation is egregious or intentional. Factors in determining whether
9 a violation is egregious include at least the following:

10 (a) recent history of similar violations;

11 (b) number of uses over the total and consecutive limits described in this Section; and

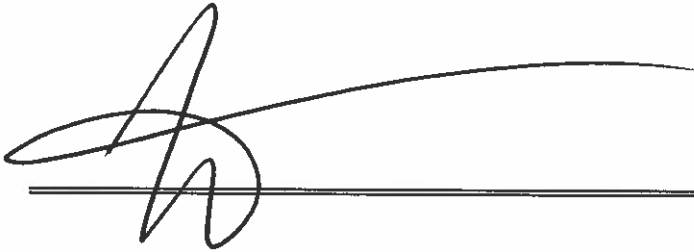
12 (c) using the crop in the overhanded position more than six (6) times.

13 Section 16. Other Means of Altering Performance. An electrical or mechanical appliance,
14 other than a riding crop, shall not be used to affect the speed of a horse in a race or workout. A
15 sponge or other object shall not be used to interfere with the respiratory system of a horse. Use or
16 nonuse of ordinary racing equipment shall be consistent and any change of equipment shall be
17 approved by the stewards.

18 Section 17. Official Order of Finish as to Pari-mutuel~~[Parimutuel]~~ Payoff. Once satisfied
19 that the order of finish is correct and that the race has been properly run in accordance with the
20 rules and KAR Title 810~~[Titles 810 and 811]~~, the stewards shall order that the official order of
21 finish be confirmed and the official sign posted for the race. The decision of the stewards as to the
22 official order of finish for pari-mutuel~~[parimutuel]~~ wagering purposes shall be final, and no

- 1 subsequent action shall set aside or alter the official order of finish for the purposes of pari-
- 2 mutuel~~[parimutuel]~~ wagering.

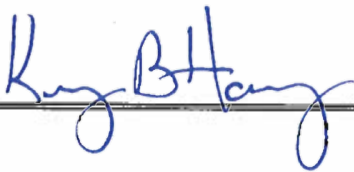
810 KAR 4:040
READ AND APPROVED:



6/24/2021

Jonathan Rabinowitz
Chair, Kentucky Horse Racing Commission

Date



6/24/2021

Kerry Harvey
Secretary, Public Protection Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at September 21, 2021 at 9:00 a.m. local time 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 is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. 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 11:59 PM on September 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Jennifer Wolsing

Title: General Counsel

Address: 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511

Phone: +1 (859) 246-2040

Fax: +1 (859) 246-2039

Email: jennifer.wolsing@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 810 KAR 4:040
Contact Person: Jennifer Wolsing
Phone: +1 (859) 246-2040
Email: jennifer.wolsing@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the rules concerning the running of the race in Thoroughbred and other flat racing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific rules concerning the running of the race in Thoroughbred and other flat racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions relating to the running of the race in Thoroughbred and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning the running of the race in Thoroughbred and other flat racing that enhance the integrity of racing.

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

(a) How the amendment will change this existing administrative regulation: The proposed amendments change the existing regulation by specifying precisely when a crop can and cannot be used during a race.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to preserve the integrity of horse racing and ensure that all equine athletes are treated with dignity and respect during a race.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This proposed amendment prescribes the conditions relating to the use of the crop in Thoroughbred and other flat racing.

(d) How the amendment will assist in the effective administration of the statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This proposed amendment provides necessary rules relating to the appropriate use of the crop during flat racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's five licensed Thoroughbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the Commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Participants in horse racing, and particularly jockeys, will be required to use the crop according to the guidelines set forth in this proposed amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity of racing.

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

(a) Initially: There will be no initial cost to implement this administrative regulation.

(b) On a continuing basis: There will be no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary to implement and enforce 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 additional fees or funding are necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any new fees or increase any current fees to participate.

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 810 KAR 4:040
Contact Person: Jennifer Wolsing
Phone: +1 (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 impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no cost to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no cost to administer this regulation for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral.

(5) Expenditures (+/-): Neutral.

(6) Other Explanation: None.