

1 PUBLIC PROTECTION CABINET

2 KENTUCKY HORSE RACING COMMISSION

3 (Amendment)

4 810 KAR 5:001. Definitions for 810 KAR Chapter 5.

5 RELATES TO: KRS 230.210, 230.215, 230.260, 230.3615

6 STATUTORY AUTHORITY: KRS 230.215, 230.260(8)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse  
8 Racing Commission to promulgate administrative regulations establishing conditions under  
9 which standardbred~~(thoroughbred)~~ racing shall be conducted in Kentucky. KRS 230.260(8)  
10 authorizes the commission to promulgate necessary and reasonable administrative regulations  
11 establishing conditions under which horse racing at a horse race meeting shall be conducted in  
12 this state. This administrative regulation defines the terms used in 810 KAR Chapter 5.

13 Section 1. Definitions.

14 (1) "Added money" means the amount of money, exclusive of trophy, added into a stakes  
15 race by an association, a sponsor, a state-bred program, or other fund, and which is in addition  
16 to stakes fees paid by subscribers.

17 (2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was  
18 foaled on January 1 of the year in which the horse was foaled.

19 (3) "Also eligible" means in standardbred racing:

1 (a) An eligible horse, properly entered, which is not drawn for inclusion in a race, but which  
2 becomes eligible according to preference or lot if another horse is scratched prior to the scratch  
3 time deadline; or

4 (b) The next preferred nonqualifier for the finals, or consolation from a set of elimination  
5 trials, which becomes eligible if a finalist is scratched by the judges for a rule violation, or is  
6 otherwise eligible if written race conditions permit.

7 (4) "Appeal" means a request for the commission to investigate, consider, and review any  
8 decision or ruling of a [steward,]judge[, or official of a meeting.

9 (5) "ARCI" means the Association of Racing Commissioners International.

10 (6) "Association" is defined by KRS 230.210[~~(5)~~].

11 (7) "Claiming race" means a race in which ownership of a horse participating in the race  
12 may be transferred in conformity with 810 KAR 5:030.

13 (8) "Closing" means the time published by the association after which entries for a race will  
14 not be accepted by the racing secretary.

15 (9) "Coggins test" means a blood test used to determine if a horse is positive for Equine  
16 Infectious Anemia.

17 (10) "Commission" is defined in 810 KAR 6:001. ~~(means:~~

18 ~~(a) The Kentucky Horse Racing Commission if used in the context of the administrative~~  
19 ~~agency governing horse racing and pari-mutuel wagering; or~~

20 ~~(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant~~  
21 ~~to KRS 230.3615, if used in the context of pari-mutuel wagering.]~~

1 (11) "Condition race" means an overnight race in which eligibility is determined according  
2 to specified conditions, which may include the following:

3 (a) Age;

4 (b) Sex;

5 (c) Earnings;

6 (d) Number of starts; or

7 (e) Positions of finishes.

8 (12) "Conditions" means qualifications that determine a horse's eligibility to be entered in  
9 a race.

10 (13) "Coupled entry" means two (2) or more horses in a race that are treated as a single  
11 betting interest for pari-mutuel wagering purposes.

12 (14) "Dash" means [~~in standardbred racing~~] a race in a single trial or in a series of two (2) or  
13 three (3) races governed by one (1) entry fee for the series, in which:

14 (a) A horse starts in all races with positions drawn for each race; and

15 (b) The number of purse distributions or payouts awarded does exceed the number of  
16 starters in the race.

17 (15) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at  
18 midnight.

19 (16) "Declaration" means [~~in Standardbred racing~~] the naming of a particular horse as a  
20 starter in a particular race.

21 (17) "Disqualification" means a ruling of the [~~stewards,~~] judges[~~,~~] or the commission revising  
22 the order of finish of a race.

- 1 (18) "Draw" means the process of determining post positions by lot.
- 2 (19) "Driver" means [~~in standardbred racing~~] a person who is licensed to drive a horse in a  
3 race.
- 4 (20) "Early closing race" means [~~in standardbred racing~~] a race for a definite amount of  
5 money in which entries close at least six (6) weeks prior to the race.
- 6 (21) "Electronic eligibility" means a computer-generated eligibility certificate that records a  
7 horse's racing statistics.
- 8 (22) "Elimination heat" means [~~in standardbred racing~~] an individual heat of a race in which  
9 the contestants qualify for a final heat.
- 10 (23) "Entry" means the act of nominating a horse for a race in conformance with KAR Title  
11 810.
- 12 (24) "Extended pari-mutuel meeting" means [~~in standardbred racing~~] a meeting or series of  
13 meetings:
- 14 (a) At which no agriculture fair is in progress;
- 15 (b) With an annual total of more than six (6) days duration; and
- 16 (c) During which pari-mutuel wagering is permitted.
- 17 (25) "Field" or "mutuel field" means a single betting interest involving more than one (1)  
18 horse that is not a mutuel entry.
- 19 (26) "Forfeit" means money due by a licensee because of an error, fault, neglect of duty,  
20 breach of contract, or alternative ruling of the [~~stewards,~~] judges[;] or the commission.
- 21 (27) "Foul" means any action by any [~~jockey or~~] driver that tends to hinder another driver,  
22 [~~jockey,~~] or any horse in the proper running of the race.

1 (28) "Futurity" means ~~[in standardbred racing]~~ a stake in which the dam of the competing  
2 animal is nominated either when in foal or during the year of foaling.

3 (29) "Handicap" means ~~[in standardbred racing]~~ a race in which allowances are made  
4 according to a horse's:

5 (a) Age;

6 (b) Sex;

7 (c) Claiming price; or

8 (d) Performance.

9 (30) "Horse" means any equine registered for racing with the applicable breed registry,  
10 irrespective of age or sex designation.

11 (31) "Ineligible" means a horse or person not qualified under Title 810 KAR or conditions of  
12 a race to participate in a specified racing activity.

13 (32) "In harness" means ~~[in standardbred racing,]~~ that the performance will be to a sulky.

14 (33) "Judge" means a duly appointed racing official with powers and duties specified in 810  
15 KAR 2:050 serving at a current meeting in the Commonwealth.

16 (34) "Late closing race" means ~~[in standardbred racing]~~ a race for a fixed amount of money  
17 in which entries close less than six (6) weeks but more than three (3) days before the race is to  
18 be contested.

19 (35) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

20 (36) "Licensed premises" is defined in 810 KAR 6:001. ~~[means:~~

21 ~~(a) The location and physical plant described in response to question 5 of the~~  
22 ~~"Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse~~

1 ~~Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in the following~~  
2 ~~year;~~

3 ~~— (b) Real property of an association, if the association receives approval from the~~  
4 ~~commission for a new location at which live racing will be conducted; or~~

5 ~~— (c) One (1) facility or real property that is:~~

6 ~~— 1. Owned, leased, or purchased by a licensed association within a sixty (60) mile radius of~~  
7 ~~the association's track but not contiguous to track premises, upon commission approval; and~~

8 ~~— 2. For purposes of paragraphs (b) and (c) of this subsection, is not within a sixty (60) mile~~  
9 ~~radius of another licensed track premises where live racing is conducted and not within a forty~~  
10 ~~(40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in~~  
11 ~~writing to permit a noncontiguous facility within the protected geographic area.]~~

12 (37) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or  
13 legal representative that has been duly issued a currently valid license to participate in racing in  
14 the Commonwealth.

15 (38) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted  
16 by the commission to a licensed association for the conduct of live horse racing that:

17 (a) Begins at 10 a.m. of the first racing day; and

18 (b) Extends through a period ending one (1) hour after the last scheduled race of the last  
19 day.

20 (39) "Month" means calendar month.

21 (40) "Mutuel entry" means a single betting interest involving two (2) or more horses  
22 entered in the same race and joined for pari-mutuel purposes because of common ties as to

1 ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all  
2 horses joined in the same mutuel entry.

3 (41) "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

4 (42) "Nominator" means the person in whose name a horse is entered for a stakes race.

5 (43) "Objection" means a verbal claim of foul in a race lodged by the horse's [jockey,] driver,  
6 trainer, or owner before the race is declared official.

7 (44) "Official time" means the elapsed time from the moment the first horse crosses the  
8 timing beam until the first horse crosses the finish line.

9 (45) "Overnight race" means a contest for which entries close at a time set by the racing  
10 secretary.

11 (46) "Owner" means any person who holds, in whole or in part, any right, title, or interest  
12 in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as  
13 a person responsible for the horse.

14 (47) "Pari-mutuel wagering," "mutuel wagering", or "pari-mutuel system of wagering" is  
15 defined in 810 KAR 6:001. [~~each means a system or method of wagering approved by the~~  
16 ~~commission in which patrons are wagering among themselves and not against the association~~  
17 ~~and amounts wagered are placed in one (1) or more designated wagering pools and the net pool~~  
18 ~~is returned to the winning patrons.~~]

19 (48) "Patron" means an individual present at a track, a licensed premises, or a simulcast  
20 facility who observes or wagers on a live or historical horse race.

21 (49) "Post" means the starting point of a race.

1 (50) "Post position" means the relative place assigned to each horse, numbered from the  
2 inner rail across the track at the starting line, from which each horse is to start a race.

3 (51) "Post time" means the advertised moment scheduled for the arrival of all horses at the  
4 starting point for a race.

5 (52) "Protest" means a written objection charging that a horse is ineligible to race, alleging  
6 improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by  
7 rules which, if true, would exclude that horse or driver from racing.

8 (53) "Purse" means the gross cash portion of the prize for which a race is run.

9 (54) "Purse race" means any race for which entries close at a time designated by the racing  
10 secretary, and for which owners of horses entered are not required by its conditions to contribute  
11 money toward its purse.

12 (55) "Race" means a running contest between horses, ~~[ridden by jockeys or]~~ driven by  
13 drivers at a recognized meeting, during regular racing hours, for a prize.

14 (56) "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and  
15 ending at midnight in which live racing is conducted by an association.

16 (57) "Racing official" means a racing commission member, commission staff, as duties  
17 require, and all association racing department employees, as duties require.

18 (58) "Registration certificate" means the document, racing permit, or virtual certificate  
19 issued by the appropriate breed registry identifying the horse for racing.

20 (59) "Result" means the part of the official order of finish in a race used to determine the  
21 pari-mutuel payoff of pari-mutuel pools.



1 (60) "Rulings" means all determinations, decisions, or orders of the judges~~[stewards]~~ or of  
2 the commission issued in writing and posted.

3 (61) "Scratch" means the withdrawal of a horse entered for a race after the time of closing  
4 of entries for the race in conformance with Title 810 KAR.

5 (62) "Scratch time" means the time set by the racing secretary as a deadline for horsemen  
6 to indicate their desire to scratch out of a race.

7 (63) "Simulcasting" is defined by KRS 230.210~~{(19)}~~.

8 (64) "Stable name" means [~~in standardbred racing~~] a name used other than the actual legal  
9 name of an owner or lessee and which has been registered with the United States Trotting  
10 Association.

11 (65) "Stake" means [~~in standardbred racing~~] a race which will be contested in a year  
12 subsequent to its closing:

13 (a) In which the money given by the association conducting the race is added to the money  
14 contributed by the nominators, all of which, except deductions for breeders or nominator's  
15 awards, belongs to the winner or winners; and

16 (b) In which, except as provided in 810 KAR 5:050, Section 6, all of the money contributed  
17 by the nominators belongs to the winner or winners.

18 (66) "Stakes" mean all fees:

19 (a) Paid by subscribers to an added-money or stakes race for nominating, eligibility,  
20 entrance, or starting, as required by the conditions of the race; and

21 (b) Included in the purse.

22 (67) "Starter" means either:

- 1 (a) An official who dispatches the horses from the starting gate; or
- 2 (b) A horse in a race when the starting gate doors open in front of it at the moment the
- 3 starter dispatches the horses for the race.
- 4 (68) "Subscription" means nomination or entry of a horse in a stakes race.
- 5 (69) "Sulky" means a dual-wheel racing vehicle with dual shafts not exceeding the height of
- 6 the horse's withers.
- 7 (70) "Suspended" means withdrawal of racing privileges by the judges or commission.
- 8 (71) "USTA" means the United States Trotting Association.
- 9 (72) "Year" means twelve (12) consecutive months beginning with January and ending with
- 10 December.

810 KAR 5:001  
READ AND APPROVED:



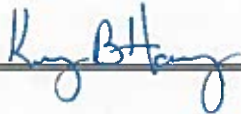
2/16/2021

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Jonathan Rabinowitz

Date

Chair, Kentucky Horse Racing Commission



2/15/2021

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Kerry Harvey

Date

Secretary, Public Protection Cabinet

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 a.m. on May 24, 2021, at Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, KY 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 May 31, 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: Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, KY 40511

Phone: +1 (859) 246-2040

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Email: [jennifer.wolsing@ky.gov](mailto:jennifer.wolsing@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 810 KAR 5:001  
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 definitions for terms used in 810 KAR Chapter 5.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure that various terms used in 810 KAR Chapter 5 are defined properly and precisely.

(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 regulation sets forth defined terms that are used in the regulations in 810 KAR Chapter 5.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the Commission's statutory mandate to prescribe the conditions under which horse racing is conducted in the Commonwealth by defining terms used in 810 KAR Chapter 5.

(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 amendment will alter the definitions of "commission," and "licensed premises," as well as "pari-mutuel wagering, mutuel wagering or pari-mutuel system of wagering," so that they cross-reference the definitions for those terms found in 810 KAR 6:001. In addition, this amendment includes a variety of other minor language modifications that are intended to ensure clarity and consistency throughout the Commission's authorizing statutes and accompanying regulations.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to ensure consistency and a lack of conflict between the Commission's regulations and Senate Bill 120, which was recently enacted by the Kentucky General Assembly and signed into law by Governor Beshear.

(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 amendment ensures consistency and a lack of conflict between the Commission regulations addressing those conditions, and Senate Bill 120, which was recently enacted by the Kentucky General Assembly and signed into law by Governor Beshear.

(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 amendment ensures consistency and a lack of conflict between the Commission regulations addressing those conditions, and Senate Bill 120, which was recently enacted by the Kentucky General Assembly and signed into law by Governor Beshear, thereby reducing the possibility of any confusion.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This proposed amendment will affect the three currently-licensed standardbred racing associations in the Commonwealth and any applicant for a standardbred racing association license.

(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: No additional action is required at this time.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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: This regulation, as amended, is not anticipated to generate any new or additional costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional costs.

(9) TIERING: Is tiering applied? Explain why or why not. No. This regulation, as amended, treats all impacted entities the same.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 810 KAR 5:001

Contact Person: Jennifer Wolsing

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(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, 230.260, 230.225, 230.261, 230.361, and 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? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required 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

