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LEGISLATIVE RESEARCH COMMISSION

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MEMORANDUM

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

FROM: Emily Caudill, Regulations Compiler

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

DATE: July 10, 2023

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

Emergency regulation

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

Ordinary regulation

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

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

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

Enclosures

FILED WITH LRC TIME: <u>4pm</u>
JUL 10 2023
<i>Emily B Caudill</i> REGULATIONS COMPILER

1 PUBLIC PROTECTION CABINET
2 KENTUCKY HORSE RACING COMMISSION
3 New administrative regulation
4 809 KAR 10:004. Sports Wagering Accounts
5 RELATES TO: KRS Chapter 230
6 STATUTORY AUTHORITY: KRS 230.260(16), KRS 230.361(2), KRS 230.805
7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.260 requires the commission
8 to "promulgate administrative regulations to establish standards for the conduct of sports
9 wagering." KRS 230.361(2) requires the commission to "promulgate administrative
10 regulations governing and regulating sports wagering, including administrative
11 regulations for the deposit of funds by credit or debit cards or other means of electronic
12 funds transfer." KRS 230.805(3) establishes additional requirements for registration of
13 sports wagering patrons' accounts, such as account registration and wager placement.
14 This administrative regulation establishes sports wagering account requirements,
15 dormant and closed account requirements, and responsible gaming limits.
16 Section 1. Sports Wagering Account Requirements.
17 Patrons shall register their Sports Wagering Accounts with the Licensee pursuant to KRS
18 230.805. Licensees shall adopt account registration policies pursuant to KRS 230.805.
19 All account registration policies shall be subject to approval by the commission. Nothing
20 in this section shall be interpreted to prohibit the Licensee from accepting anonymous
21 wagers by a Sports Wagering Device within the Licensed Premises.

1 (1) An account shall only be established in the name of an account holder who
2 is a natural person and shall not be in the name of any beneficiary, custodian, joint trust,
3 corporation, partnership, or any other entity.

4 (2) A Licensee shall collect the following Personally Identifiable Information
5 from each account holder through the Sports Wagering System:

6 (a) The account holder's full legal name;

7 (b) The account holder's date of birth;

8 (c) The account holder's Social Security number, or the last four (4)
9 digits of the Social Security number, or an equivalent government identification
10 number for a noncitizen, such as a passport or taxpayer identification number; and

11 (d) All data required by KRS 230.805.

12 (3) During the Sports Wagering Account registration process, the
13 Licensee shall:

14 (a) Deny patrons the ability to register for account if they submit a birth
15 date which indicates that they are an Underage Person; and

16 (b) Inform the patron on the account application which information fields
17 are "required," which are not, and what will be the consequences of not filling in
18 the required fields.

19 (4) During the Sports Wagering Account registration process, patrons shall:

20 (a) Agree to the terms and conditions and privacy policies of the
21 Licensee;

22 (b) Acknowledge that they are prohibited from:

23 1. Transferring or selling an account or account balance;

1 2. Using any technology that may obscure or falsify the account
2 holder's physical location for the purpose of placing Sports Wagers;

3 3. Allowing any unauthorized person to access or use their
4 account; and

5 4. Any form of collusion, cheating, or other unlawful activity.

6 (c) Consent to the monitoring and recording of the use of their account
7 by the Licensee and the racing commission;

8 (d) Attest that:

9 1. The account holder meets all eligibility requirements to place
10 a wager with a Licensee in this Commonwealth; and

11 2. The Personally Identifiable Information the account holder is
12 providing to open the account is accurate.

13 (e) Authorize the provision of notices and other required
14 communications either through a designated mobile or other interface or to an
15 electronic mail address designated by the account holder.

16 (5) A Licensee shall maintain an electronic patron file, which shall include the
17 following for each Sports Wagering Account:

18 (a) Unique Sports Wagering Account ID and username (if different);

19 (b) The information indicated in subsection (2) to register an account
20 holder and create the account;

21 (c) The date and method of identity verification:

1 1. Where applicable, the Licensee shall maintain the document
2 number of the government issued identification credential examined and its
3 date of expiration.

4 2. If a government issued identification credential is not required
5 for registration, the electronic record that details the process used to confirm
6 the account holder's identity shall be recorded.

7 (d) The date of account holder agreement to the terms and conditions
8 and privacy policies;

9 (e) Previous Sports Wagering Accounts, if any, and reason for de-
10 activation;

11 (f) The date and method from which the Sports Wagering Account was
12 registered;

13 (g) The date and time a Sports Wagering Account is accessed by any
14 person;

15 (h) The IP Address at which a Sports Wagering Account is accessed by
16 any person;

17 (i) A history of financial transactions, including deposits, withdrawals,
18 and account adjustments;

19 (j) Account details and current balance, including any incentive credits.
20 All restricted wagering credits and unrestricted funds that have a possible
21 expiration shall be maintained separately; and

22 (k) The current status of the Sports Wagering Account (e.g., active,
23 dormant, closed, suspended, excluded).

1 (6) The following information maintained as part of the electronic patron file
2 shall be stored in encrypted form:

3 (a) The account holder's government identification number, or portion(s)
4 thereof;

5 (b) The account holder's previous and current password(s), PIN(s), or
6 other authentication credential(s); and

7 (c) The account holder's previous and current debit instrument
8 number(s), credit or debit card number(s), bank account number(s) or other
9 personal financial information.

10 (7) A Licensee may allow the account holder to update authentication
11 credentials, registration information and the account used for financial transactions. A
12 Multi-Factor Authentication process shall be employed for these purposes.

13 Section 2. Age and Identity Verification.

14 The Licensee shall comply with KRS 230.805. The Licensee shall also adopt
15 commercially and technologically reasonable policies and procedures to verify and
16 authenticate the age and identity of each account holder.

17 (1) Only eligible persons may create a Sports Wagering Account, deposit funds,
18 or participate in Sports Wagering. The Licensee shall make commercially and
19 technologically reasonable efforts to deny the ability to create a Sports Wagering Account,
20 deposit funds, or participate in Sports Wagering to any Prohibited Patron. This section
21 shall not be construed to prevent a Restricted Patron from creating a Sports Wagering
22 Account and depositing funds into such an account even if they are prohibited from
23 placing certain wagers.

1 (2) At the time of account establishment, the Licensee shall employ electronic
2 verification with respect to the following:

3 (a) All information required by KRS 230.805, and

4 (b) Each account holder's government identification number or
5 portion(s) thereof.

6 (3) The electronic verification information shall be verified by a commission-
7 approved independent reference company, or through an alternative process approved
8 by the commission.

9 (4) The following data shall be verified before account holders can initiate
10 activity including deposits, withdrawals, and wagering:

11 (a) Items that require an exact match:

12 1. The account holder's last name;

13 2. The account holder's date of birth;

14 3. The account holder's government identification number, or
15 portion(s) thereof.

16 (b) Items that permit flexible match for common interpretations of names
17 and abbreviations used in the address fields:

18 1. The account holder's first name; and

19 2. The account holder's principal residential address.

20 (5) Reasonable measures shall be taken to ensure the person providing identity
21 information is truly the owner of the identity before an account holder can initiate any
22 activity including deposits, withdrawals, and wagering. One of the following methods, or
23 another method approved by the racing commission, is required:

1 (a) Correctly answer three dynamic knowledge-based questions
2 compiled from public and private data such as public records, credit reports,
3 marketing data and other recorded facts;

4 (b) Verification that the account holder's phone number or e-mail
5 address match the information provided by the account holder; or

6 (c) Valid government issued identification credential.

7 (6) The Licensee may refuse to establish an account if it is found that any of
8 the information supplied is false or incomplete or for any other reason the Licensee deems
9 sufficient.

10 (7) A Licensee shall use commercially available and demonstrable standards
11 to confirm that an individual attempting to create a Sports Wagering Account is not
12 prohibited from placing a wager.

13 (8) A Licensee shall periodically re-verify an account holder's identification
14 upon reasonable suspicion that the account holder's identification has been
15 compromised.

16 Section 3. Limitation to One Account per Account Holder.

17 A Licensee shall use all commercially and technologically reasonable means to ensure
18 that each individual is limited to one (1) Sports Wagering Account with that Licensee in
19 the Commonwealth.

20 (1) The Licensee shall implement procedures to terminate all accounts of any
21 account holder that establishes or seeks to establish more than one (1) username or more
22 than one (1) account, whether directly or by use of another person as proxy.

1 (2) Such procedures may allow an account holder that establishes or seeks to
2 establish more than one (1) username or more than one (1) account to retain one (1)
3 account provided that the Licensee investigates and makes a good-faith determination
4 that the account holder's conduct was not intended to obtain a competitive advantage.

5 (3) This section shall not be construed to prevent an individual from holding
6 other Sports Wagering Accounts in other jurisdictions.

7 (4) If an Operator Licensee has contracted with multiple Service Provider
8 Licensees to offer Mobile Sports Wagering on its behalf, individuals may have one (1)
9 Sports Wagering Account with each Service Provider Licensee offering mobile Sports
10 Wagering.

11 Section 4. Terms and Conditions and Privacy Policies for Sports Wagering Accounts.

12 All terms and conditions and privacy policies for Sports Wagering Accounts shall be
13 included in the Internal Controls of the Licensee and shall be readily accessible to the
14 account holder before and after registration and noticed when materially updated.

15 (1) All terms and conditions for Sports Wagering Accounts shall address all
16 aspects of the Licensee, including:

17 (a) A statement that only individuals located in the authorized
18 geographic boundaries within the Commonwealth of Kentucky can participate in
19 Sports Wagering;

20 (b) A statement that Prohibited Patrons are prohibited from participating
21 in Sports Wagering;

22 (c) Advice to the account holder to keep their authentication credentials
23 (e.g., password and username) secure;

1 (d) All processes for dealing with lost authentication credentials, forced
2 password changes, password strength and other related items as required by the
3 racing commission;

4 (e) Full explanation of all rules applicable to dormant Sports Wagering
5 Accounts, including the conditions under which an account is declared dormant
6 and what actions will be undertaken on the account once this declaration is made;

7 (f) Actions that will be taken on the account holder's pending wagers
8 placed prior to any exclusion or suspension, including the return of all wagers, or
9 settling all wagers, as appropriate;

10 (g) Information about timeframes and limits regarding deposits to and
11 withdrawals from Sports Wagering Accounts, including a clear and concise
12 explanation of all fees, if applicable; and

13 (h) Statements indicating that the Licensee has the right to:

14 1. Refuse to establish a Sports Wagering Account for what it
15 deems good and sufficient reason;

16 2. Refuse deposits to or withdrawals from Sports Wagering
17 Accounts for what it deems good and sufficient reason; and

18 3. Unless there is a pending investigation or dispute, suspend or
19 close any Sports Wagering Account at any time pursuant to the terms and
20 conditions between the Licensee and the account holder.

21 (2) All privacy policies for Sports Wagering Accounts shall address all aspects
22 of the Personally Identifiable Information protection, including:

23 (a) The Personally Identifiable Information required to be collected;

1 (b) The purpose and legal basis for Personally Identifiable Information
2 collection and of every processing activity for which consent is being sought;

3 (c) The period in which the Personally Identifiable Information is stored,
4 or, if no period can be possibly set, the criteria used to set this;

5 (d) The conditions under which Personally Identifiable Information may
6 be disclosed;

7 (e) An affirmation that measures are in place to prevent the unauthorized
8 or unnecessary disclosure of the Personally Identifiable Information; and

9 (f) The identity and contact details on the Licensee who is seeking the
10 consent.

11 Section 5. Account Access.

12 (1) The Sports Wagering System shall use authentication credentials, such as
13 a username (or similar) and a password or a secure alternative means to assure that only
14 the account holder has access to the Sports Wagering Account. Allowable authentication
15 credentials are subject to the discretion of the racing commission as necessary. The
16 requirement does not prohibit the option for more than one method of authentication being
17 available for an account holder to access their account.

18 (2) If the Sports Wagering System does not recognize the authentication
19 credentials when entered, an explanatory message shall be displayed to the account
20 holder which prompts the account holder to try again. The error message shall be the
21 same regardless of which authentication credential is incorrect.

22 (3) Account holders shall be given the option to use a Multi-Factor
23 Authentication process when accessing their Sports Wagering Account. In addition, a

1 Multi-Factor Authentication shall be employed for the retrieval or reset of an account
2 holder's forgotten or lost authentication credentials.

3 (4) Current account balance information, such as any restricted wagering
4 credits and unrestricted funds, and transaction options shall be available to the account
5 holder once authenticated. All restricted wagering credits and unrestricted funds that have
6 a possible expiration shall be indicated separately.

7 (5) The Sports Wagering System shall support a mechanism that allows for an
8 account to be locked if suspicious activity is detected, such as three consecutive failed
9 access attempts in a 30-minute period. A Multi-Factor Authentication process shall be
10 employed for the account to be unlocked.

11 Section 6. Financial Transactions.

12 (1) Licensees shall provide the account holder written confirmation or denial of
13 every financial transaction initiated on Sports Wagering Accounts, including:

- 14 (a) The type of transaction (deposit or withdrawal);
- 15 (b) The transaction value; and
- 16 (c) For denied transactions, a descriptive message, if appropriate and
17 available, as to why the transaction did not complete as initiated.

18 (2) A Sports Wagering Account may be funded using acceptable form of
19 payment or advance deposit method which shall produce a sufficient audit trail for
20 verification of the source of the wagers.

21 (a) Payment or advance deposit methods for funding Sports Wagering
22 Accounts may be funded by forms or methods approved by the racing commission
23 including:

- 1 1. All forms of payment authorized in KRS 230.805;
- 2 2. Cash equivalents converted to cash;
- 3 3. Electronic funds transfers (EFTs), such as automated clearing
- 4 house and other electronic methods;
- 5 4. Promotional or bonus credit;
- 6 5. Winnings;
- 7 6. Adjustments made by the Licensee with documented
- 8 notification to the account holder; and
- 9 7. Any other form of payment authorized by the commission.

10 (b) The Sports Wagering Account shall be credited for any deposit in
11 accordance with the Internal Controls as submitted by the Licensee and approved
12 by the racing commission.

13 (c) For credit or debit cards, and EFTs, the account holder may be liable
14 for any charges imposed by the transmitting or receiving Licensee and the charges
15 may be deducted from the account holder's Sports Wagering Account.

16 (3) Where financial transactions are conducted through EFT, the Licensee shall
17 have security measures and controls to prevent EFT fraud. A failed EFT attempt is not
18 considered fraudulent if the account holder has successfully performed an EFT on a
19 previous occasion with no outstanding chargebacks. Otherwise, the Licensee shall do the
20 following:

21 (a) Temporarily block the account holder's Sports Wagering Account for
22 investigation of fraud after five (5) consecutive failed EFT attempts within a 10-
23 minute period. If there is no evidence of fraud, the block may be vacated; and

1 (b) Suspend the account holder's Sports Wagering Account after five (5)
2 additional consecutive failed EFT attempts within a 10-minute period.

3 (4) An account holder shall be allowed to withdraw the funds maintained in their
4 Sports Wagering Account, whether the account is open or closed, except as otherwise
5 provided in these Regulations, or any other applicable state or federal laws.

6 (a) A Licensee shall employ a mechanism that can detect and prevent
7 any withdrawal activity initiated by an account holder that would result in a negative
8 balance of the Sports Wagering Account.

9 (b) A Licensee shall not allow a Sports Wagering Account to be
10 overdrawn unless caused by payment processing issues outside the control of the
11 Licensee.

12 (c) A Licensee shall honor the account holder's request to withdraw
13 funds within five (5) business days after the request, unless the conditions
14 established in subsection (d) are met.

15 (d) The Licensee may decline to honor an account holder's request to
16 withdraw funds only if the Licensee believes in good faith that the account holder
17 engaged in either fraudulent conduct or other conduct that would put the Licensee
18 in violation of the Act and these Regulations. In such cases, the Licensee shall do
19 the following:

20 1. Suspend the Account Holder's Sports Wagering Account and
21 provide notice to the Account Holder; and

22 2. Conduct its investigation in a reasonable and expedient
23 fashion, providing the account holder additional written notice of the status

1 of the Sports Wagering Account every tenth (10th) business day starting
2 from the day the original notice was provided to the account holder.

3 (e) For purposes of this subsection, a request for withdrawal is
4 considered honored if it is processed by the Licensee notwithstanding a delay by
5 a payment processor, credit or debit card issuer, or the custodian of a financial
6 account.

7 (5) All adjustments to Sports Wagering Accounts for amounts of five hundred
8 dollars (\$500.00) or less shall be periodically reviewed by supervisory personnel as
9 established in the Licensee's Internal Controls. All other adjustments shall be authorized
10 by an authorized supervisory personnel of the Licensee before being entered.

11 Section 7. Account Information.

12 Upon request of the account holder, the Licensee shall provide a statement detailing
13 account activity for the past year, including wagers, deposit amounts, withdrawal
14 amounts, and bonus or promotion information.

15 Section 8. Patron-Imposed Limits.

16 A Licensee shall allow an account holder to limit the amount of money that may be
17 deposited into an account and spent through an account.

18 (1) A deposit limit shall be offered on a daily, weekly and monthly basis and
19 shall specify the maximum amount of money an account holder may deposit into their
20 Sports Wagering Account during a particular period of time.

21 (2) A wager limit shall be offered on a daily, weekly and monthly basis and shall
22 specify the maximum amount of account holder funds that may be put at risk during a
23 particular period of time.

1 (3) Any decrease to these limits shall be effective immediately or at the point in
2 time (e.g., next login, next day) that was clearly indicated to the account holder. Any
3 increase to these limits shall become effective only after the time period of the previous
4 limit (e.g., day, week, month, etc.) has expired and the account holder reaffirms the
5 requested increase.

6 Section 9. Breaks from Wagering.

7 (1) A Licensee shall enable an account holder to request a break from wagering
8 for a period of time the account holder specifies, which shall not be less than seventy-two
9 (72) hours, by submitting a request to the Licensee through its Website or Mobile
10 Application.

11 (2) The Licensee shall provide to an account holder who requests a break from
12 wagering information concerning:

13 (a) Available resources addressing addiction and compulsive behavior;

14 (b) How to close an account and restrictions on opening a new account
15 during the break;

16 (c) Requirements to reinstate an account at the end of the break;

17 (d) The ability to enroll in the Voluntary Self-Exclusion Program and a
18 link to such site; and

19 (e) How the Licensee addresses bonuses or promotions and account
20 balances during and after the break, and when the account holder closes their
21 Sports Wagering Account.

22 Section 10. Suspension and Restoration of Sports Wagering Accounts.

1 (1) A Sports Wagering Account may be placed into a suspended mode by the
2 Licensee for any reason, not otherwise prohibited by state or federal law, at the sole
3 discretion of the Licensee.

4 (2) A Sports Wagering Account shall be placed into a suspended mode by the
5 Licensee under any of the following conditions:

6 (a) When the account holder requests a break from wagering under
7 section 10(1);

8 (b) When required by the racing commission;

9 (c) If the Licensee determines it lacks sufficient information to verify the
10 age and eligibility of the account holder;

11 (d) Upon a determination by a Licensee that an account holder:

12 1. Has provided any false or misleading information in
13 connection with the opening of the account or has engaged in collusion,
14 cheating or other unlawful conduct;

15 2. Is barred from placing Sports Wagers in the Commonwealth
16 of Kentucky; or

17 3. Is a Prohibited Patron; or

18 (e) When the Licensee has evidence that indicates any of the following:

19 1. Illegal activity including providing any false or misleading
20 information in connection with the opening of the account, or engaging in
21 collusion, cheating, or other unlawful conduct;

22 2. A negative Sports Wagering Account balance; or

1 3. A violation of the terms and conditions has taken place on an
2 account holder's Sports Wagering Account.

3 (3) When a Sports Wagering Account is in a suspended mode, the Licensee
4 shall:

5 (a) Prevent the account holder from placing Sports Wagers;

6 (b) Prevent the account holder from depositing funds unless the account
7 is suspended due to having a negative Sports Wagering Account balance but only
8 to the extent the Sports Wagering Account balance is brought back to zero dollars;

9 (c) Prevent the account holder from withdrawing funds from their Sports
10 Wagering Account, unless the Licensee acknowledges that the funds have
11 cleared, and that the reason(s) for suspension would not prohibit a withdrawal;

12 (d) Prevent the account holder from making changes to their Sports
13 Wagering Account;

14 (e) Prevent the removal of the Sports Wagering Account from the Sports
15 Wagering System;

16 (f) Prominently display to the account holder that the Sports Wagering
17 Account is in a suspended mode, the restrictions placed on the Sports Wagering
18 Account, and any further course of action needed to remove the suspended mode;
19 and

20 (g) Remove the account holder from any advertising or marketing
21 distribution lists.

22 (4) A Sports Wagering Account in a suspended mode may be restored for any
23 of the following reasons:

1 (a) Upon completion of the break from wagering established by the
2 account holder under section 10(1);

3 (b) If authorized by the racing commission;

4 (c) When the account holder is no longer a Prohibited Patron; or

5 (d) When the Licensee has lifted the suspended status.

6 (5) If the Sports Wagering Account is terminated in accordance with this
7 section, any funds remaining in the Sports Wagering Account shall be refunded to the
8 account holder, provided that the Licensee acknowledges that the funds have cleared,
9 and that the reason(s) for termination would not prohibit a withdrawal.

10 Section 11. Account Closure.

11 (1) A Sports Wagering System shall provide a conspicuous and readily
12 accessible method for an account holder to close their Sports Wagering Account through
13 the account management or similar page or through the Licensee's customer support
14 team.

15 (2) Upon closure, any funds remaining in the Sports Wagering Account shall be
16 refunded to the account holder, provided that the Licensee acknowledges that the funds
17 have cleared and no racing commission investigation regarding the funds is pending.

18 Section 12. Dormant Accounts.

19 Any Sports Wagering Account with no log-in activity for at least three (3) years may be
20 closed. When a Sports Wagering Account is closed, the Licensee shall issue any funds,
21 less processing fees, within five (5) business days to the account holder's last-known
22 address.

23 Section 13. Test Accounts.

1 A Licensee may establish test accounts to be used to test the various components and
2 operation of a Licensee pursuant to the Internal Controls, which shall address the
3 following:

4 (1) The procedures for issuing funds used for testing, including the identification
5 of who may issue the funds and the maximum amount of funds that may be issued;

6 (2) The procedures for assigning each test account for use by only one (1)
7 individual, unless each user's activities are separately logged;

8 (3) The maintenance of a record for all test accounts, to include when they are
9 active, to whom they are issued, and the employer of the individual to whom they are
10 issued; (4) The procedures for auditing testing activity by the Licensee to ensure the
11 accountability of funds used for testing and proper adjustments to Adjusted Gross
12 Revenue; and

13 (5) The procedures for authorizing and auditing out-of-state test activity.

809 KAR 10:004

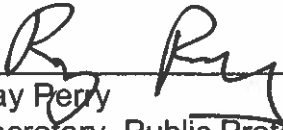
READ AND APPROVED



Jonathan Rabinowitz
Chair, Kentucky Horse Racing Commission

7/10/23

Date



Ray Perry
Secretary, Public Protection Cabinet

7-10-23

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on September 22, 2023 at 9:00 a.m., at 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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

809 KAR 10:004

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 regulation specifies the sports wagering account requirements and responsible gaming limits, and also establishes requirements for dormant and closed accounts.

(b) The necessity of this administrative regulation: This regulation is necessary to provide specific rules concerning the establishment and maintenance of sports wagering accounts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.260 requires the commission to "promulgate administrative regulations to establish standards for the conduct of sports wagering." KRS 230.361(2) requires the commission to "promulgate administrative regulations governing and regulating sports wagering, including administrative regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer." KRS 230.805(3) establishes additional requirements for registration of sports wagering patrons' accounts, such as account registration and wager placement. This regulation proscribes the conditions relating to the establishment and maintenance of sports wagering accounts, which includes patrons' account registration, identity verifications, and wager placements.

(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 statutes by ensuring that sports wagering providers properly establish and maintain patrons' sports wagering accounts.

(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 the definitions in this regulation. Additionally, there are an unknown number of patrons who will choose to set up a sports wagering account.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Licensed tracks that obtain a sports wagering license, as well as service providers, must observe the regulatory requirements when allowing patrons to use their sports wagering accounts.

(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. Tracks may incur the costs of contracting with service providers to manage patrons' accounts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, tracks will benefit from having clear standards for patrons' sports wagering accounts. Kentuckians will benefit because people under 18 will be precluded from placing sports wagers. Sports wagering patrons will benefit from secure accounts that only allow authorized financial transactions. Patrons will also benefit from being able to request a break from wagering if needed.

(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. No additional funding is required for the implementation and enforcement of this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

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

or increase any current fees.

(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 10:004

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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 affected by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.260(16), KRS 230.361(2), and KRS 230.805 require or authorize the actions taken by this regulation.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This sports wagering account regulation will not generate revenue during the first full 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 sports wagering account 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: None.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This regulation may generate cost

savings in establishing regulatory criteria for patron account confidentiality and security. This could prevent costs associated with hackers or phishing attacks.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This regulation may generate cost savings in establishing regulatory criteria for patron account confidentiality and security. This could prevent costs associated with successful hacking or phishing attacks.

(c) How much will it cost the regulated entities for the first year? Tracks may incur the costs of contracting with service providers to manage patrons' accounts.

(d) How much will it cost the regulated entities for subsequent years? Tracks may incur the costs of contracting with service providers to manage patrons' accounts.

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

Cost Savings (+/-): This regulation may prevent costs associated with successful hacking or phishing attacks.

Expenditures (+/-): Tracks may incur the costs of contracting with service providers to manage patrons' accounts.

Other Explanation: None.

(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.