

SENATE MEMBERS

Robert Stivers
President, LRC Co-Chair
David Givens
President Pro Tempore
Damon Thayer
Majority Floor Leader
Gerald A. Neal
Minority Floor Leader
Julie Raque Adams
Majority Caucus Chair
Reginald Thomas
Minority Caucus Chair
Mike Wilson
Majority Whip
David Yates
Minority Whip



LEGISLATIVE RESEARCH COMMISSION

State Capitol 700 Capital Avenue Frankfort KY 40601

502-564-8100

Capitol Fax 502-564-2922

Annex Fax 502-564-6543

legislature.ky.gov

Jay D. Hartz
Director

HOUSE MEMBERS

David W. Osborne
Speaker, LRC Co-Chair
David Meade
Speaker Pro Tempore
Steven Rudy
Majority Floor Leader
Derrick Graham
Minority Floor Leader
Suzanne Miles
Majority Caucus Chair
Cherlynn Stevenson
Minority Caucus Chair
Jason Nemes
Majority Whip
Rachel Roberts
Minority Whip

MEMORANDUM

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

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 810 KAR 002:100, 810 KAR 004:090, 810 KAR 007:030, and 810 KAR 007:060

DATE: May 12, 2023

A copy of each administrative regulation listed above is enclosed for your files. These regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **AUGUST 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 or a one-month extension request for these regulations is due **by noon on August 15, 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: *9:00am*
MAY 12 2023
Emily B Caudill
REGULATIONS COMPILER

1 PUBLIC PROTECTION CABINET

2 Kentucky Horse Racing Commission

3 (New Administrative Regulation)

4 810 KAR 2:100. Self-Exclusion.

5 RELATES TO: KRS 230.260(15), KRS 61.870 through 61.884

6 STATUTORY AUTHORITY: KRS 230.260(15)

7 NECESSITY, FUNCTION AND CONFORMITY: KRS 230.260 authorizes the Horse Racing

8 Commission to promulgate administrative regulations prescribing conditions for a self-
9 exclusion list for people who identify as problem or compulsive gamblers. This statute
10 also requires the Commission to promulgate regulations prescribing conditions for
11 notifications of the availability of this list by racing associations.

12 Section 1: Self-Exclusion List.

13 (1) The racing commission shall establish and maintain a self-exclusion list for individuals
14 who self-identify as problem or compulsive gamblers.

15 (2) The list shall include the names and other identifying information of the individuals
16 who have self-excluded from gambling at racing tracks, as set forth in Section 3(1).

17 Section 2: Notice to the Public.

18 (1) Each racing association shall display a notice to the public of the existence of the self-
19 exclusion list and the method or methods individuals may use to self-identify at the track, online,
20 or by phone.

1 (2) The notice shall be displayed at public entrances to the wagering-specific locations of
2 the racing track and on the racing association's website.

3 (3) The notice shall include information about the consequences of self-exclusion,
4 including that the individual will be prohibited from entering the racing track and participating in
5 any gambling activity at the track.

6 (4) The notice and its placement locations shall be approved by the commission.

7 Section 3: Collection of Self-Exclusion Information.

8 (1) Each racing association shall collect self-exclusion information from individuals who
9 self-identify as problem or compulsive gamblers.

10 (2) The self-exclusion information collected shall include the individual's name, address,
11 date of birth, and other identifying information as prescribed by the racing commission.

12 (3) The racing association shall provide the self-exclusion information to the racing
13 commission on a weekly basis and in a manner approved by the commission.

14 Section 4: Compilation of Comprehensive List.

15 (1) The racing commission shall compile and maintain a comprehensive list of all
16 individuals who have self-excluded from gambling at racing tracks.

17 (2) The comprehensive list shall include the self-exclusion information provided by each
18 racing association.

19 (3) The comprehensive list shall be provided to all racing associations and updated on an
20 as-needed basis, but at least monthly.

21 Section 5: Confidentiality of Self-Exclusion Information.

1 (1) Pursuant to KRS 61.878(1)(a) and KRS 230.260, information collected under this
2 subsection shall be excluded from the application of KRS 61.870 to 61.884.

3 (2) Self-exclusion information shall be kept confidential and shall not be disclosed except
4 as necessary to enforce these regulations or as required by law.

5 Section 6: Self-exclusion policy.

6 (1) Each racing association may establish its own self-exclusion policy. Each policy shall be
7 approved by the racing commission to ensure the best interests of horse racing and compliance
8 with KRS 230.260.

9 (2) The policy may cover how the racing association chooses to exclude individuals on the
10 exclusion list. The policy may include identification and verification, forfeiture of prizes by
11 excluded persons, security personnel, technology, employee training, contractual obligations, or
12 collaboration with other racing associations.

13 (3) Each racing association shall review its self-exclusion policy at least once every two
14 years and amend it as necessary to ensure compliance with commission regulations and its
15 effectiveness in achieving the purposes for which it is established.

810 KAR 2:100
READ AND APPROVED:

Jonathan Rabinowitz, pro by permission 05/10/2023

Jonathan Rabinowitz

Date

Chairman, Kentucky Horse Racing Commission

Ray O. Perry

5-10-23

Ray Perry

Date

Secretary, Public Protection Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on July 21, 2023 at 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 July 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Jennifer Wolsing

Title: General Counsel

Address: 4063 Iron Works Parkway, Building B, Lexington, KY 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 2:100
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 a self-exclusion list for individuals who self-identify as problem or compulsive gamblers.

(b) The necessity of this administrative regulation: KRS 230.260(15) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers. This regulation fulfills that statutory mandate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.260(15) requires the Kentucky Horse Racing Commission to promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers. This administrative regulation fulfills that statutory mandate. This administrative regulation also requires each racing association to display a notice to the public of the self-exclusion list and the method or methods individuals may use to self-identify as stated in the statute. This administrative regulation also requires each racing association to forward self-exclusion information to the Kentucky Horse Racing Commission, who shall compile the information into a comprehensive list to provide to the racing associations, as required by statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the mandates in KRS 230.260(15).

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects Kentucky's licensed racing associations.

(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: Kentucky's licensed racing associations will be required to display a notice to the public of the existence of the self-exclusion list and the method or methods individuals may use to self-identify, collect self-exclusion information, provide self-exclusion information to the Kentucky Horse Racing Commission on a weekly basis, and review any self-exclusion policy at least once every two years to ensure compliance with regulations and its effectiveness in achieving the purposes for which it is established.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: The licensed racing associations are expected to have little to no costs to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Compliance with this administrative regulation promotes the integrity of Kentucky's racing and wagering industries.

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

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

(b) On a continuing basis: There is 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: There is no increased cost.

(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 established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or increase any current fees.

(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

Regulation: 810 KAR 2:100
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. The statutory authority for this administrative regulation is found in KRS 230.260(15).

(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 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 subsequent years.

(c) How much will it cost to administer this program for the first year? Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program for 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 is not anticipated to generate cost savings in the first year.

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

(c) How much will it cost the regulated entities for the first year? This regulation is anticipated to generate little to no new costs in the first year.

(d) How much will it cost the regulated entities for subsequent years? This regulation is anticipated to generate little to no new costs in subsequent years.

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 (+/-): While self-exclusion lists are currently maintained by the individual tracks, there could be minimal data entry required, with such costs assumed to be negligible.

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)].* The KHRC does not anticipate a major economic impact, as set forth in the answers to the questions above.