

810 KAR 1:100. Frivolous appeals.

RELATES TO: KRS 230.215, 230.225(7), 230.310(2), 230.320, 230.330

STATUTORY AUTHORITY: KRS 230.215(2), 230.320(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215 vests the Kentucky Horse Racing Commission with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. KRS 230.320(1) allows the commission to promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse. KRS 230.320(3) requires the commission to grant any person whose license is denied, suspended, or revoked or who is assessed an administrative fine or required to return a purse, the right to appeal the decision and to have an administrative hearing conducted in accordance with KRS Chapter 13B. KRS 230.320(5) allows the commission to determine that certain appeals are frivolous and requires it to, by administrative regulation, prescribe the conditions or factors that would lead to that determination. This emergency administrative regulation defines the term "frivolous" as it pertains to KRS 230.320(5).

Section 1. Frivolous Appeals. The commission may determine that an appeal is a frivolous appeal. An appeal shall be presumed to be frivolous if:

- (1) The applicant applies for an appeal to the commission but fails, without good cause, to appear at the KRS Chapter 13B pre-hearing, if one is scheduled, or the KRS Chapter 13B hearing before the commission's hearing officer;
- (2) The applicant appears at the KRS Chapter 13B hearing but fails, without good cause, to offer evidence at the hearing to support his application for review; or
- (3) The appeal is totally lacking in merit such that it appears to have been taken in bad faith. (36 Ky.R. 2264; Am. 37 Ky.R. 371; eff. 9-3-10.)