

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)**

810 KAR 2:040. Stewards.

RELATES TO: KRS 230.215(2)

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(1), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.240(1) authorizes the commission to prescribe by administrative regulation the required officials for horse racing and their official duties. KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing conditions under which all horse racing is conducted. This administrative regulation establishes the qualifications, duties, powers, and responsibilities of the stewards.

Section 1. Steward Qualifications. To qualify for employment or approval by the commission to serve as a steward, a person shall have:

- (1)(a) Successfully completed an accreditation school or program approved by the commission; and
- (b) Satisfactorily passed a written and oral examination given by the school or program;
- (2) Served as a steward, racing secretary, assistant racing secretary, starter, placing judge, horse identifier, paddock judge, or clerk of scales, at one (1) or more recognized race meetings for a period of not less than sixty (60) racing days per year during at least three (3) of the five (5) preceding calendar years;
- (3) Been an observer in the stewards stand for a period of at least thirty (30) days; and
- (4) Satisfactorily passed an optical examination within one (1) year prior to approval as a steward evidencing corrected twenty-twenty (20-20) vision and ability to distinguish colors correctly.

Section 2. Steward Prohibitions. (1) No person shall serve as a steward until approved by the commission.

(2) No person under suspension or ejection by any racing jurisdiction shall be employed or approved by the commission to serve as a steward.

(3) No person may serve as a steward unless the commission is satisfied that income, other than salary as a steward, that may accrue to a person under consideration for appointment as a steward is independent of and unrelated to patronage of or employment by any licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of a licensee.

Section 3. Employment of Stewards. (1) The commission shall employ and compensate two (2) of the three (3) stewards for each race meeting, including the chief steward.

(2) A racing association shall nominate one (1) of the three (3) stewards for each race meeting for approval by the commission and shall be responsible for that person's compensation as a steward.

(a) The association nomination for steward shall be submitted when an association applies for a license if possible, but in no event later than thirty (30) days before commencement of a race meeting, and shall be accompanied by biographical data describing the experience and qualifications of the nominee.

(b) The association shall submit successive nominees until one (1) person is approved by the commission as qualified to serve as a steward.

(3) Stewards shall serve from one (1) minute after midnight on the day before the first racing day until one (1) minute before midnight on the day after the last racing day of the race meeting for which they are employed. If a dispute or controversy arises during a race meeting that is not settled at the conclusion of the race meeting, then the matter shall be adjudicated by the stewards at a successive race meeting in Kentucky, or until the matter is referred or appealed to the commission.

(4) Stewards shall be responsible only to the commission and may be replaced by the commission at any time for failure to perform their duties to the satisfaction of the commission.

(5) If a steward becomes ill, resigns, or is unable to serve for any reason, the remaining stewards shall nominate a successor or temporary steward to the commission for approval. In emergencies, a single member of the commission by telephone may approve employment of a successor steward.

Section 4. General Powers of Stewards. The stewards shall exercise immediate supervision, control, and regulation of racing at each licensed race meeting on behalf of and responsible only to the commission. The powers of the stewards shall include:

(1) Authority over all horses and all persons, licensed or unlicensed, on association grounds and at locations under the jurisdiction of the commission during a race meeting as to all matters relating to racing;

(2) Determining all questions, disputes, protests, complaints, or objections concerning racing which arise during a race meeting and enforcing the determinations;

(3) Suspending the license of a participant in racing or denying licensed or unlicensed persons access to association grounds or locations under the jurisdiction of the commission, upon reasonable belief that a violation of KAR Title 810 has or is about to occur;

(4) Interpreting and enforcing Chapter 230 of the Kentucky Revised Statutes and Title 810 of the Kentucky Administrative Register and determining all questions pertaining to a racing matter not specifically covered by these administrative regulations;

(5) Issuing decisions or rulings pertaining to racing which shall supersede orders of the officers, directors, and officials of the association and which shall, if the stewards deem proper, vary any arrangement for the conduct of a race meeting, to include postponing or canceling a race, or ruling a race run as "no contest";

(6) Requesting assistance from commission employees, racing officials, members of the Thoroughbred Racing Protective Bureau, track security police, or state or local police, in the investigation of possible rule infractions;

(7) Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters;

(8) Selecting a substitute, if a regularly named rider or racing official other than a steward is unable for any reason to perform. Upon suspicion of fraud or misconduct, the stewards may excuse a horse or replace any rider or racing official other than a steward; and

(9) All other powers and duties established for stewards in Title 810 KAR.

Section 5. Duties and Responsibilities of Stewards. In addition to the duties and responsibilities necessary and pertinent to general supervision, control, and regulation of race meetings, and without limiting the authority of the stewards to perform these and other duties enumerated in these administrative regulations, the stewards shall have the following specific duties and responsibilities:

(1) To take appropriate action on all misconduct or administrative regulation infractions, to cause investigations to be made of all instances of possible infractions, and to take appropriate action to prevent an administrative regulation infraction;

(2) To have at least one (1) steward on association grounds from scratch time or if not a racing day, when entries are first taken until entries are closed. At least two (2) stewards shall be present for the scheduled viewing of race replays. All three (3) stewards shall be on association grounds no less than ninety (90) minutes before post time until conclusion of the last race. All three (3) stewards shall be present in the stewards' stand during the running of each race;

(3) To have at least one (1) steward, or a designated representative of the stewards, present in the paddock at least twenty (20) minutes before each race. The steward may remain there until the horses leave for the starting gate, to observe the conduct of all persons in and around the paddock and inspect, with the paddock judge and commission veterinarian, all horses for fitness;

(4) To inspect applications for licenses to participate in racing, and administer, or cause to be administered by technically qualified persons, standard examinations to all first-time applicants for a trainer, jockey, apprentice jockey, veterinarian, dental technician, or farrier license, and make recommendations to the commission as to the qualifications of all applicants for licenses to participate in racing;

(5)(a) To review licenses and registration certificates, and contracts, papers, and other documents pertaining to the sale or ownership of a horse, payment of purse money, jockey and apprentice jockey contracts, appointments of agents, and adoptions of racing colors or stable name; and

(b) To determine the eligibility and appropriateness for participation in racing under supervision of the stewards;

(6) To call for proof of eligibility of a horse or person to participate in a race, if eligibility is in question and in absence of sufficient proof to establish eligibility, the stewards may rule that horse or person ineligible;

(7) To review stall applications and advise the association of undesirable persons, if any, among owners and trainers applying for stalls and provide the association with information pertaining to the undesirable persons;

(8) To supervise the taking of entries and receive all declarations and scratches and determine all questions arising and pertaining to declarations and scratches. The stewards may in their discretion refuse the entry of any horse by any person, refuse to permit a declaration or scratch, or may limit entries;

(9) To lock all pari-mutuel betting machines not later than the moment the starting gate is opened for the commencement of a race, to cause the "inquiry" sign to be posted immediately after the horses have crossed the finish line in a race if any doubt is held by any steward or any other racing official as to the fairness of the running of that race, to cause the objection sign to be posted upon the lodging of an objection, and to cause the "official" sign to be posted after determining the official order of finish for purposes of pari-mutuel payoff;

(10) To draw up a list of riders including all apprentice jockeys whom the stewards feel should review the race replays for instructional purposes and post that list in the jockey's room;

(11) To maintain a daily Stewards Report recording all actions taken by the stewards on all controversies that arise during the day. The report shall show name of track, date, weather, track condition, claims, rulings issued, and any other circumstance or condition regarded as unusual. The reports shall be signed by all three (3) stewards and filed with the commission;

(12) To make periodic inspections of the barn area and check track security and to make occasional, informal visits to the jockeys' room and observe weighing out and check security.

Inspections and observations made pursuant to this section shall be noted in the stewards' report;

(13) To maintain a written record of all questions, disputes, protests, complaints, or objections brought to the attention of the stewards, and which, at the discretion of the stewards, warrant investigation and the creation of a written record. The record shall be available to the commission for inspection at all times; and

(14) If deemed necessary, after the conclusion of a race meeting, to submit to the commission a written report setting out the condition of the meeting and association grounds, and any recommendations for improvement.

FRANKLIN S. KLING, JR., Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 27, 2018 at 1:30 p.m., at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by five (5) working days 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 cancelled. 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 p.m., December 31, 2018. Please 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: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John L. Forgy

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the duties, responsibilities, and powers of the stewards, who preside over race meetings under the jurisdiction of the Commission.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to enable the stewards to effectively govern race meetings under the jurisdiction of the Commission.

(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 grants authority to stewards to ensure that race meetings are conducted in a fair and efficient manner.

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

the statutes by granting the stewards the authority to preside over race meetings under the jurisdiction of the Commission.

(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 regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statute: 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: The Commission is affected by this administrative regulation, and any licensed participant in horse racing is potentially affected by this administrative regulation. 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 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: No particular action will be required of licensed participants in horse racing to comply with this administrative regulation, except to the extent participants are subject to the authority, direction, and rulings of the stewards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No direct costs will be imposed upon licensed participants in horse racing in complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will benefit from the order provided to race meetings under the direction of the stewards.

(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 cost to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be used 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 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 new fees or increase any current fees to participate in licensed horse racing with pari-mutuel wagering thereon in Kentucky.

(9) TIERING: Is tiering applied? Tiering is not applied because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.240, 230.260, 230.280, 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.

(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.

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.