

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

810 KAR 2:060. Owners' authorized agents and jockey agents.

RELATES TO: KRS 230.215, 230.260

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) vests the Kentucky Horse Racing Commission with the authority to promulgate regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth. 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. The function of this administrative regulation is to outline the requirements for authorized owner and jockey agents.

Section 1. Agents Permitted. Any licensed owner, jockey, or apprentice jockey may authorize another person as an agent to act on the licensee's behalf in all matters pertaining to racing in this state and transfer of horses on association grounds, provided the authorization is in writing and defines the powers, limits, and term of the agency.

Section 2. License Required. No person may act as agent on behalf of another licensee in a matter pertaining to racing in this state, or in the transfer of horses on association grounds, without a current license.

Section 3. Owners' Authorized Agents.

(1) If an authorized agent is to act on behalf of more than one (1) owner, a separate agent license shall be obtained by each owner.

(2) An owner seeking to act through an authorized agent shall submit a completed Authorized Agent License Application, KHRC 2-060-01. An application submitted by an owner for an authorized agent license shall be accompanied by the original written agency appointment, signed by the owner and notarized.

(3) If the agency appointment is other than one authorizing broad general powers and qualifies or limits powers of the agent to act on behalf of the principal in any way, then the license, if issued, shall indicate the limitation by the word "qualified" or "limited."

(4) No racing official shall permit any authorized agent whose license indicates a qualified or limited agency to act as an authorized agent until the racing official has inspected a copy of the agency appointment and ascertains whether the act is empowered by agency.

(5) Unless precluded by specified limitations in the agency appointment, a licensed authorized agent may perform on behalf of the licensed owner all acts related to racing in this state or transfer of horses on association grounds that could be performed by the principal had the principal been present. In executing any document on behalf of the principal, an authorized agent shall clearly indicate he or she is acting as an authorized agent and shall specify the principal for whom he or she is acting. When an authorized agent enters a claim for the account of a principal for whom he or she is licensed as an authorized agent, the name of the licensed owner for whom the claim is being made and the name of the authorized agent shall appear on the claim slip.

Section 4. Jockey Agents.

(1) No jockey agent shall make engagements for more than two (2) riders. No rider may be represented by two (2) jockey agents at one (1) time.

(2) No person other than a licensed jockey agent may make riding engagements for a rider, except that a jockey not represented by an agent may make his own riding engagements. Any person permitted to make a riding engagement for a rider shall maintain in his or her possession an engagement book and shall record all riding engagements made, which shall be subject to examination by the stewards at any time. No jockey agent may enter the jockey room, paddock, or racing strip during the hours of racing.

(3) Any dispute arising from a conflict of claims for the services of a rider shall be determined by the stewards on the basis of written records submitted by the parties involved.

Section 4. Termination of Agency. An agency shall remain in effect until written notification of revocation from the principal is received by the commission. If a jockey agent is dismissed by his employer, or if a jockey agent discontinues making engagements for a rider, then the jockey agent shall immediately notify the stewards and turn over to the clerk of scales a list of any unfulfilled engagements the jockey agent may have made for the rider.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Authorized Agent License Application", KHRC 2-060-01.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at <http://khrc.ky.gov>.

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 requirements for the use of authorized agents in horse racing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify the roles of and restrictions of authorized agents in horse racing.

(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 outlines the conditions under which authorized agents are permitted to function in horse racing.

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

(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 Kentucky Horse Racing Commission licensed 161 authorized agents in 2017. 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: Authorized agents are required to obtain a commission license and secure a written agreement between the principal and the agent.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be required to comply with this administrative regulation, other than to obtain a license for a fee of \$150.00. This fee is consistent with previous years.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Authorized agents will benefit from obtaining a clear understanding of their roles in horse racing and the restrictions upon their activities.

(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: Any necessary funding will be provided from the budget of the Kentucky Horse Racing Commission.

(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 additional 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 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 licensees 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 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, 230.225, 230.240, 230.260, 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