

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

810 KAR 2:080. Standardbred racing associations.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to regulate horse racing in Kentucky. This administrative regulation establishes requirements for the operation of standardbred racing associations.

Section 1. During the course of its race meetings, a licensed standardbred association shall display in the racing association's office the license issued by the commission for the current year.

Section 2. Default in Payment of Purses. An association shall not default in the payment of any purse that has been offered in a race.

Section 3. Time to File Claims for Unpaid Purses. Unless a claim for an unpaid purse is filed with or appealed to the commission within twelve (12) months after the date the race is contested, the commission may release any performance bond it holds related to the purse.

Section 4. If at a meeting of a licensed association, a race is contested that has been promoted by another party, and the promoters default in the payment of the amount raced for, the same liability shall attach to the licensed association as if the race had been offered by the licensed association.

Section 5. Minimum Advertised Purse or Schedule of Purses. If an association advertises a minimum purse and conducts a race for less than the advertised minimum, the association shall be fined the difference between the advertised minimum and the lesser purse for which such race was conducted, and the proceeds may be distributed among the money winning horses in proportion to their respective winnings.

Section 6. Removal of a Horse from the Grounds. A horse shall not be ordered off the grounds unless a minimum of twenty-four (24) hours' notice (excluding Sunday) is provided to the person in charge of the horse. A person shall not fail to remove a horse after proper notice.

Section 7. Driver Awards. An association shall not advertise to pay or pay any award other than to an owner, nominator, or breeder of a money-winning horse, except that an award may be made to a driver of a horse breaking or equaling an association or world record, or to a leading driver at a meeting.

Section 8. Paddock Rules.

(1) An association conducting an extended pari-mutuel meeting shall provide a paddock or receiving barn.

(2) The paddock or receiving barn shall be completely enclosed with a man-tight fence and each opening through the fence shall be policed by a person licensed by the commission who shall exclude unauthorized personnel. A daily record of all persons entering or leaving the

paddock from one (1) hour prior to the first post time until all races on that program have been completed shall be maintained on a form provided by the association and approved by the commission.

(3) A horse shall be in the paddock at the time prescribed by the presiding judge, but in any event at least one (1) hour prior to post time of the race in which the horse is to compete. Except for a warm up trip, a horse shall not leave the paddock until called to the post.

(4) A person entitled to admission to the paddock shall be at least sixteen (16) years old and shall include:

(a) An owner of a horse competing on the date of the race;

(b) A trainer of a horse competing on the date of the race;

(c) A driver of a horse competing on the date of the race;

(d) A groom and caretaker of a horse competing on the date of the race;

(e) An official whose duties require the presence of that person in the paddock or receiving barn;

(f) An official of the commission;

(g) The designated representative of the horseman; and

(h) A person approved by the presiding judge.

(5) Unless permission is granted by the judges, a driver, trainer, groom, or caretaker, once admitted to the paddock or receiving barn, shall not leave the paddock or receiving barn, other than to warm up a horse, until the race or races for which the horse was admitted is contested.

(6) All persons, except drivers in the driver's stand, shall leave the paddock as soon as that person's duties are completed for the race or races for which that person was admitted.

(7) A member of a registered stable, other than the driver, shall be entitled to admission to the paddock on any day a horse owned by that stable is racing.

(8) During racing hours, an association shall provide the services of a farrier within the paddock.

(9) During racing hours an association shall promptly provide suitable extra equipment as may be necessary.

Section 9. Photo Finish, Film Patrol, Head Numbers, Starting Gate.

(1) At an association where pari-mutuel wagering is allowed, a photo finish, film patrol, head numbers, saddle pads, and starting gate shall be used.

(2) At an extended pari-mutuel meeting, the association shall provide for a back-up starting gate.

(3) If the judges use a photo to determine the order of finish, the photo shall be posted for public inspection.

(4) Photo finish equipment shall include a stationary camera, mounted above the finish wire and perpendicular to the race track, along with a spinner or stationary target.

(5) A camera utilizing a shutter between the film and the race track during the actual finish of a race, or which has a field view greater than twelve (12) inches at the finish line, shall not be utilized. The presiding judge shall verify that the photo finish equipment is in working order prior to each racing program.

Section 10. Driver Insurance. An association shall prepare and prominently display, in the race secretary's office, a statement containing the name of the company providing driver insurance coverage.

Section 11. (1) (a) An association at an extended pari-mutuel meeting shall be equipped with a scientifically-reliable breath, blood, or urine alcohol testing device approved by the

commission and operated by a person certified to use such a device. A licensee may be required to submit to a breath analyzer test at the discretion of the presiding judge or his assistant, based on the presiding judge's reasonable suspicion that the person might have an impermissible amount of alcohol or illegal substances in his system.

(b) A person shall not be permitted to drive:

1. If a breath, blood, or urine alcohol testing device reveals at the time of the person's entry into the paddock a reading of 0.05% or more of alcohol or any trace of illegal controlled substance either in the breath, blood, or urine of that individual; or

2. If, in the opinion of the presiding judge, a person is impaired to the point the person's driving skills or judgement may be affected.

(c) At the time of entry into the paddock, if a breath, blood, or urine alcohol testing device given to a person who is scheduled to drive reveals the presence of 0.05% or more of alcohol or any trace of an illegal controlled substance, the presiding judge shall charge the driver with a violation pursuant to Section 15(1) of this administrative regulation.

(2) A person shall not be permitted to act as a judge, starter, or marshal if a breath, blood, or urine alcohol testing device reveals a presence of 0.05% of alcohol or any trace of illegal controlled substance in the blood, urine, or breath of that individual at any time on a race day during which that person is scheduled to officiate. If alcohol or illegal substances are found to be present, that individual shall be immediately relieved of duties for that program and a report shall be made prior to the next racing day to the commission for appropriate action. The individual shall be charged with a violation pursuant to Section 15(1) of this administrative regulation.

(3) In any meeting other than an extended pari-mutuel meeting, a driver, judge, starter, driver of the starting gate, and marshall shall submit to a breath, blood, or urine alcohol test if requested by the presiding judge. The result of the test shall be governed by subsection (2) of this section, and the individual shall be charged with a violation pursuant to Section 15(1) of this administrative regulation if the impermissible amount of alcohol or illegal substances are found to be present.

Section 12. A saddle pad in use at an association conducting an extended pari-mutuel meeting shall be standardized consistent with a format to be established by the United States Trotting Association.

Section 13. Horse Ambulance. During an extended pari-mutuel race meeting, an association shall provide a properly equipped and properly manned horse ambulance for the removal of injured or dead animals from the track. The horse ambulance shall be present on the grounds at any programmed race, time trial, or qualifying race under the jurisdiction of the commission. A horse ambulance shall be equipped with a screen for use if it is necessary to destroy an animal in view of the general public, and with a winch to lift dead or injured animals onto the ambulance. It shall be the responsibility of the commission to ensure that proper supplies of alcohol, water, euthanasia medication, and horse leg splints are aboard the ambulance.

Section 14. Emergency Medical and Ambulatory Services for Persons.

(1) At an association where any programmed race, time trial, or qualifying race under the jurisdiction of the commission takes place, it shall be the responsibility of the association to:

(a) Provide a licensed paramedic, emergency medical technician, or the equivalent; and

(b) Maintain in good operating order an ambulance or other suitable transportation, capable of transporting injured parties to an appropriate medical facility, available and stationed at an entrance to the racing surface allowing for visual contact with the race in progress.

(2) The medical personnel present shall make a prompt response if one (1) or more drivers or horses are involved in an accident or there is a need for emergency transportation.

(3) The ambulance shall be stationed at every programmed race, time trial, and qualifying race under the jurisdiction of the commission.

(4) The emergency medical personnel and the ambulance shall be on the premises during the period beginning one (1) hour prior to post time for the first race on the program, or first qualifying race, through the conclusion of the racing program. If the ambulance must leave its station for any reason, a replacement ambulance shall be present on the association grounds before the next race is run.

Section 15. Commission Office. Each association shall provide suitable facilities for the commission in the conduct of its business. Failure to do so within ten (10) days after written notification by the commission setting out the deficiencies of said facilities shall subject said licensee to a fine up to \$250 per day for each day that suitable facilities are not thereafter provided.

Section 16. Policing of Premises. The association shall provide a sufficient number of guards and watchmen to maintain order on all parts of the racing enclosure. No tipster shall be allowed on any part of the licensed premises, no groom or stable attendant shall loiter in the betting ring or any place else with the evident intention of engaging in tipping for any remuneration or for nothing, and anyone so found shall be immediately escorted to the general manager of the licensee and his license shall be taken up, and the licensee shall thereafter exclude said person from the licensed premises.

Section 17. Supervision of Peddlers. The association shall supervise the practice and methods of so-called merchandise peddlers who may have entry to the track enclosure. Such supervision shall be extended to any other stables where horses are lodged which may be eligible to race at said meeting. However, the association shall not by virtue of this rule or otherwise restrict the open purchasing or attempt to control or monopolize said business or proper selling of merchandise to owners, trainers, or stable employees.

Section 18. Drinking Fountains and Rest Rooms. The association shall furnish an adequate number of free drinking water fountains, comfort stations, and washrooms throughout its grounds and buildings for the use of the public.

Section 19. Stabling of Horses. Any horse racing at a licensed meeting must be stabled within the confines of that track; provided, however, in case of necessity such a horse may be stabled within the confines of an adjacent Kentucky race track, or in another location approved by the commission. The association holding the race meeting shall provide for temporary stabling of horses, eligible to race, which are brought to the races from approved outside stable space.

Section 20. Watchmen in Stable Area. Each association shall maintain and furnish complete and adequate watchman service night and day in and about all stable enclosures.

Section 21. Duties of Watchmen.

(1) Watchmen so employed shall be individually responsible for the certain part of the stable enclosure where they are on duty and shall immediately investigate and report the presence of

anyone during the night or day who may be within said stable enclosure without possessing proper credentials.

(2) A letter of instructions to all watchmen shall be addressed to each of them by the association, covering fully their duties and their strict obligation to keep stable enclosures free from outsiders and hangers on, and a copy thereof furnished to the commission.

Section 22. Stable Enclosures Fenced. All stable enclosures must be properly fenced and admission granted only on proper license or credentials actually shown to the gatemen. This rule may be waived with commission approval.

Section 23. Betting by Racing Officials. Betting by racing officials is prohibited.

Section 24. Betting by Paddock Employees. Any track employee working in the paddock area is not allowed to bet or pass information to outsiders for betting purposes.

Section 25. Exculpatory Clauses. Effective January 1, 1997, agreements (including but not limited to stall applications, entry forms, and condition books) between persons or entities licensed by the Kentucky Racing Commission regarding the stabling of horses, the racing of horses, the training of horses or other activities at tracks owned or operated by licensed associations, and conditions of racing established by licenses associations, shall not contain provisions which absolve or hold harmless a licensee from liability, or limit the liability of a licensee, for loss, loss of use, injury or damage caused or contributed to by the acts or omissions of any licensee or its agents or employees, except for:

(1) Ordinary negligence which causes or contributes to loss, injury or damage to horses while on the premises of a licensed association; and

(2) Ordinary negligence which causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury or damage to horses arising from the use of grass fields ("gallops") owned or controlled by the licensed association. Subject to the above exceptions, all licensees participating in the stabling of horses, the racing of horses, the training of horses, and related activities at tracks owned or operated by licensed associations shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. No licensee shall attempt to limit liability of any person or entity for gross negligence or intentional wrongdoing.

Section 26. Constructive Notice to and Consent of Licensees. All persons licensed by the Kentucky Horse Racing Commission shall be deemed, as a condition of licensure, to have notice of and to have consented to exculpatory provisions, which comply with the limitations set forth in this regulation, included in agreements between licensees and in conditions of racing established by a licensed association. Exculpatory provisions which exceed the limitations set forth in this regulation shall be void and unenforceable in their entirety.

Section 27. Model Provision. The following provision shall be deemed to comply with the limitations set forth in this regulation: All Kentucky Horse Racing Commission licensees, including but not limited to the host association, owners, trainers, jockeys, drivers, and grooms ("licensees"), participating in stabling, racing, training, and related activities at (name of licensed association) recognize that hazards and risks inherent in such activities may cause the injury or death of horses. Therefore, in consideration of participating in stabling, racing, training and related activities at (name of licensed association), all licensees assume the risks of, and release, hold harmless and covenant not to sue all other licensees so participating for:

(1) Ordinary negligence which causes or contributes to loss, loss of use, injury or damage to horses while on the premises of (name of association); and

(2) Ordinary negligence which causes or contributes to personal injury or property damage, including but not limited to loss, loss of use, injury or damage to horses arising from the use of grass fields ("gallops") owned or controlled by (name of licensed association), whether arising from alleged acts or omissions of a licensee and its agents or employees, the condition of the premises or (name of licensed association) or any other cause. Except as provided above, all licensees participating in racing, training and related activities at (name of licensed association) shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law.

Section 28. Persons Permitted on Licensed Premises.

(1) A licensee of the commission shall immediately report to association security personnel the presence of any person not authorized by this administrative regulation to be on all or any portion of association grounds.

(2) A licensee shall take all necessary measures that are not prohibited by law to maintain the security of horses on association grounds and to protect horses from injury due to mistreatment, fright, or tampering.

(3) Persons not employed by, or not the invited guests of, the racing association or the owner or trainer of a horse scheduled to run that day shall be excluded from the paddock area, race strip, and appurtenant portions of the track, with the following exceptions;

- (a) Members, officers, and employees of the commission;
- (b) Racing officials;
- (c) Police officers;
- (d) Officials and directors of the United States Trotting Association;
- (e) Officials and directors of Standardbred Canada; and
- (f) Duly-accredited members of the news media.

Section 29. Admission to Premises. A current badge or button issued by the commission, or a current badge or button issued by the Association of Racing Commissioners International, shall be honored for admission to any location on association grounds operating under the jurisdiction of the commission.

Section 30. Limited Admission.

(1) A person not possessing and displaying a properly-issued badge or identification card shall not be permitted to enter any part of the licensed premises except the clubhouse, grandstand, or other areas open to patrons or the general public, with the following exceptions:

- (a) Members, officers, and employees of the commission;
- (b) Racing officials;
- (c) Police officers;
- (d) Persons permitted into the paddock area, race strip, and appurtenant portions of the track under Section 1(3) of this administrative regulation; and
- (e) Persons permitted into the stable area under Section 3(2) of this administrative regulation.

(2) Only the following persons performing official duties within the stable area shall be entitled to enter the stable area of a licensee:

- (a) Members, officers, and employees of the commission;
- (b) Members and employees of the association;
- (c) Racing officials;

- (d) Police officers;
- (e) Owners;
- (f) Trainers;
- (g) Grooms; and
- (h) Others who are performing official duties within the stable area.

Section 31. Identification Cards and Badges. (1) Cards and badges.

(a) A licensee shall issue identification cards or badges only to:

1. The licensee's officers, employees, guards, and watchmen;
2. Drivers; and
3. Owners and trainers and their employees, assistants, grooms, and attendants.

(b) A licensee shall have the right to recall identification cards or badges upon reasonable cause to believe a violation of the law has occurred or as reasonably necessary to maintain effective security procedures.

(c) Identification cards or badges shall be collected from owners and trainers and their employees, assistants, grooms, and attendants when the horses of the owners or trainers are removed from the licensed premises.

(d) An identification card or badge shall not be transferable.

(e) An identification card or badge shall be subject to forfeiture if utilized or attempted to be utilized by a person other than the person to whom it was issued.

(f) The commission shall specifically identify by color designation each association under its control. The licensee shall only authorize admittance to the association upon the showing of a properly color-coded identification card or badge. An identification card or badge shall be subject to forfeiture if the holder utilizes the card or badge to attempt to gain entry or access to an association other than the one for which the card or badge applies.

(g) Any identification card or badge may be declared forfeit by the executive director of the commission, the designated representative of the commission, or the presiding judge upon reasonable cause to believe a violation of the law has occurred, or as reasonably necessary to maintain effective security procedures.

(2) Enforcement. The director of security designated by the commission shall have the primary responsibility of enforcing this administrative regulation.

Section 32. Association with Undesirables Prohibited.

(1) (a) An owner, driver, trainer, groom, attendant, or other person having charge of or access to a harness race horse shall not associate with, consort with, or in any manner communicate with a known gambler, bookmaker, tout, or persons of similar pursuits either on or off association grounds.

(b) An owner, driver, trainer, groom, attendant, or other person having charge of or access to a harness race horse shall be presumed to have knowledge of the reputation or notoriety of persons with whom he or she has communications regarding horse racing.

(2) A person under the jurisdiction or control of the commission shall have a duty to immediately report knowledge of any of the following activities to the commission or one (1) of its appointed representatives:

(a) Offer or promise of a bribe;

(b) Request or suggestion for a bribe;

(c) Offer, promise, request, or suggestion of any other improper, corrupt, or fraudulent act or practice that could affect the outcome of a race; or

(d) Request or suggestion that any race be conducted otherwise than fairly and in accordance with the law.

Section 33 Tack Inspection.

(1) For the purpose of maintaining the safety and security of the association grounds, the commission or its designated representative shall have the right to permit an authorized person to inspect or examine the personal effects or property of every trainer, driver, stable foreman, groom, authorized agent, and veterinarian, by entering in or upon:

(a) The stable, rooms, or other places within the track enclosure where a race meeting is held; or

(b) Other tracks or places where horses eligible to race at a race meeting are kept.

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 no later than 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 day-to-day operation of licensed Standardbred racing associations in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the operational, physical, and equipment requirements for Kentucky racetracks.

(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 establishes the conditions under which standardbred racetracks are required to operate during horse race meetings in Kentucky.

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

are operated during horse race meetings in Kentucky in manner consistent with the integrity of racing.

(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: Kentucky's standardbred licensed standardbred racetracks will be affected by this administrative regulation, as well as the licensees who participate in racing at the racetracks.

(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: Kentucky's standardbred racetracks will be required to conform to the operational and physical requirements for racing established in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No new costs are anticipated to comply with this administrative regulation, as Kentucky's standardbred racetracks have operated in accordance with these requirements for many years.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? Kentucky's Standardbred racetracks and the individual licensees who participate in racing at the tracks will benefit from having their duties and regulatory guidelines clearly defined.

(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: No significant funding will be required 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 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 standardbred horse racing with pari-mutuel wagering thereon in Kentucky.

(9) TIERING: Is tiering applied? Tiering is not applied because this administrative 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, KRS 230.290, KRS 230.300.

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