

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

810 KAR 4:050. Claiming races.

RELATES TO: KRS 230.215, 230.260

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes conditions for claiming races.

Section 1. (1) In claiming races a horse shall be subject to claim for its entered price by a licensed owner in good standing, or by the holder of a claiming license. The procedure for obtaining a claiming license shall be as follows:

(a) An applicant shall, fifteen (15) days prior to entering a claim, submit:

1. An application for owners' original license;
2. A financial statement;
3. To a background check, if requested by the commission;
4. The name of a licensed trainer, or person eligible to be licensed as a trainer, who will assume care and responsibility for the horse claimed; and
5. The requisite fee for a claiming license.

(b) The claiming license shall be valid for the remainder of the calendar year.

(2) (a) A claim may be made by an authorized agent.

(b) An agent may claim only for the account of those for whom he is licensed as agent.

(c) The name of the authorized agent and the name of the owner for whom the claim is being made shall appear on the claim slip.

(3) (a) A person shall not claim his own horse or cause his own horse to be claimed, directly or indirectly, for his own account.

(b) A claimed horse shall not remain in the same stable or under the care or management of the owner or trainer from whom it is claimed.

(4) (a) A person shall not claim more than three (3) horses from a race.

(b) Multiple claims submitted by the same authorized agent and/or trainer for a single horse shall not be permitted and shall be void.

(5) (a) A claimed horse shall not run for thirty (30) days after being claimed in a race in which the determining eligibility price is less than twenty-five (25) percent more than the price for which the horse was claimed.

(b) The day following the day the horse is claimed shall be the first day for purposes of the thirty (30) day period;

(c) The claimed horse shall be entitled to enter whenever necessary to permit it to start on the 31st calendar day following the claim.

(d) This subsection shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper, and starter allowance races.

(6) (a) A horse claimed in a claiming race shall not be sold or transferred, wholly or in part, within thirty (30) days after the day it was claimed, except in another claiming race.

(b) Unless the stewards grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting in Kentucky, a horse shall not race elsewhere until the close of entries of the meeting at which it was claimed.

(7) (a) A claim shall be:

1. Made on commission "Claim Blank";
2. Sealed in an envelope supplied by the commission; and
3. Deposited in the association's claim box.

(b) The "Claim Blank" form and envelope shall be filled out completely and accurately.

(8) (a) Claims shall be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made.

(b) Money or its equivalent shall not be put in the claim box.

(c) A claim shall be valid if the claimant at the time of filing the claim has a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.

(9) The stewards, or their designated representative, shall:

(a) Open the claim envelopes for each race as soon as the horses leave the paddock en route to the post; and

(b) Check with the horseman's bookkeeper to ascertain whether the proper credit balance has been established with the association.

(10) If more than one (1) valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.

(11) (a) After the race has been run a horse that has been claimed shall be delivered to the claimant.

(b) The claimant shall present written authorization for the claim from the racing secretary.

(c) After written authorization has been presented, horses that are sent to the detention area for post race testing shall be delivered.

(d) Other horses shall be delivered in the paddock.

(e) A person shall not refuse to deliver a horse claimed out of a claiming race to the person legally entitled to the horse.

(f) If the owner of a horse that has been claimed refuses to deliver the horse to the claimant, the horse shall be disqualified from further racing until delivery is made.

(12) (a) A claim shall be irrevocable.

(b) Title to a claimed horse shall be vested in the successful claimant from the time the horse is a starter; and the funds shall be transferred to the account of the previous owner, with said funds immediately available for future claiming transactions.

(c) The stewards shall void the claim and return the horse to the original owner if:

1. The horse suffers a fatality during the running of the race or dies or is euthanized before leaving the track; or

2. The commission veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound, or lame before the horse is released to the successful claimant.

(c) The stewards shall not void the claim if, prior to the race in which the horse is claimed, the claimant indicates on the claim blank that he or she elects to claim the horse regardless of whether the commission veterinarian determines the horse will be placed on the Veterinarian's List as bled, unsound, or lame.

(d) A claimed horse shall run in the interest of and for the account of the owner from whom it is claimed.

(13) (a) A person shall not:

1. Enter or offer to enter into an agreement to claim or not to claim; or

2. Attempt or offer to attempt to prevent another person from claiming any horse in a claiming race.

(b) A person shall not attempt by intimidation to prevent anyone from running a horse in a claiming race.

(c) An owner or trainer shall not make an agreement with another owner or trainer for the protection of each other's horse in a claiming race.

(14)(a) A claim that does not comply with the provisions of this administrative regulation shall be void.

(b) The stewards shall be the judges of the validity of a claim.

(15) A person holding a lien of any kind against a horse entered in a claiming race shall record the lien with the racing secretary or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be presumed that none exists.

(16) The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

(18) (a) A claimed horse not otherwise selected by the stewards for post-race testing shall be subjected to post-race testing in blood for the presence of substances regulated by 810 KAR Chapter 8. The results of the test shall be reported to the chief state steward.

(b) If a test is positive for a substance associated with a Class A, B, or C penalty or for a TCO2 violation, the claim may be voided at the option of the claimant and the claimant shall be entitled to return of all sums paid for the claimed horse and of all expenses incurred after the date of the claim.

(c) While awaiting test results, a claimant:

1. Shall exercise due care in maintaining and boarding a claimed horse; and
2. Shall not materially alter a claimed horse.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Claim Blank (Rev 96)"; and
- (b) Claim Blank envelope.

(2) This material may be inspected at Kentucky Horse Racing Commission, 4063 Iron Works Pike, Building B, Lexington Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

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 28, 2018 at 10:00 a.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 Commis-

sion, 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 rules concerning claiming races in thoroughbred and other flat racing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific rules concerning claiming races in thoroughbred and other flat 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 prescribes the conditions relating to claiming races in thoroughbred and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning claiming races in thoroughbred and other flat racing that enhance 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 five licensed thoroughbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. 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: Participants in horse racing, and especially owners, trainers and jockeys, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to claiming races in thoroughbred and other flat racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? Participants in racing will benefit from clearly defined rules that enhance the integrity of

rating.

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

(a) Initially: There is no initial 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 necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the 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 are 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.

(9) TIERING: Is tiering applied? Tiering was 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 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