

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

810 KAR 4:090. Owners.

RELATES TO: KRS 230.215, 230.260, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.310, 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which horse racing shall be conducted in Kentucky. KRS 230.310 requires any person who desires to participate in racing in Kentucky as an owner to apply to the commission for a license, and authorizes the commission to promulgate administrative regulations pertaining to licensing. KRS 230.320 authorizes 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. The function of this administrative regulation is to outline the requirements for owners to participate in horse racing in Kentucky.

Section 1. Owner's License Required. No horse may be entered or raced in this state unless the owner or each of the part owners, except as allowed in Section 4 of this administrative regulation, has been granted a current owner's license or temporary license by the commission.

Section 2. Owner's License Limitations.

(1) A licensed owner or trainer may personally serve as a farrier or jockey for horses he owns or are registered as in his care, provided he has received from the stewards a certification of the licensee's fitness as a competent farrier or jockey.

(2) A licensed owner:

(a) Shall own or have under lease a horse eligible to race, and be prepared to prove same upon call of the stewards.

(b) Shall not engage in an activity directly or indirectly involving the racing performance of horses owned by others.

(3)(a) Except as provided in paragraph (b), a licensed owner shall be at least eighteen (18) years old.

(b) The commission may grant an owner's license to a person less than eighteen (18) years of age who is a son or daughter of a licensed owner in this state, if the parent:

1. Holds an owner's license in this state; and

2. Files with the license application of the minor an agreement whereby the parent assumes responsibility for meeting all financial, contractual, or other obligations relating to racing of the applicant son or daughter

(4) The commission may deny, suspend, or revoke an owner's license for the spouse or any member of the immediate family or household of a person who is ineligible to hold an owner's license, unless there is a showing on the part of the applicant or licensed owner that his or her participation in racing as an owner shall in no way circumvent the intent of the administrative regulation by permitting a person, under the control or direction of a person ineligible for an owner's license, to serve in essence as a substitute for the ineligible person.

Section 3. Ownership Disclosure.

(1) Licensed owners and licensed trainers shall be jointly responsible for making a full dis-

closure of the entire ownership of each horse in their care.

(2) Disclosure under this section shall identify in writing all persons who directly, or indirectly through a lien, lease partnership, corporate stockholding, syndication, or other joint venture, hold any present or reversionary right, title, or interest in and to such horse, and those persons who by virtue of any form of interest may exercise control over or benefit from the racing of the horse. The degree and time of such ownership held by each person shall also be designated.

(3) Disclosure under this section shall be made when registering each horse with the racing secretary upon arrival on association grounds or at time of entry whichever event occurs first and shall be revised immediately upon any subsequent change in the ownership.

(4) Disclosure under this section together with all written agreements, and affidavits setting out oral agreements, pertaining to the ownership of or rights to a horse, shall be filed with the stewards.

(5) All documents pertaining to the ownership or lease of a horse filed with the stewards shall be available for public inspection.

(6) The stewards may review the ownership of each horse entered to race. The stewards may determine the validity for racing purposes of all leases, transfers, and agreements pertaining to ownership of a horse and may call for adequate evidence of ownership at any time. The stewards may declare ineligible to race any horse, the ownership or control of which, is in question.

Section 4. Joint Ownership.

(1) No more than five (5) individual persons may be licensed as owners of a single horse.

(2) If more than five (5) individual persons own interests in a single horse, through a partnership, corporation, syndication, or other joint venture, then those individual persons shall designate a member of the partnership, corporation, syndicate, or joint venture to represent the entire ownership of and be responsible for the horse as the licensed owner.

(3) The commission may deny, suspend, or revoke the license of any owner whose ownership of a horse is qualified or limited in part by rights or interests in or to the horse being held or controlled by any other individual person or persons who would be ineligible to be licensed as an owner.

Section 5. Program Listing of Owners. Names of all persons licensed as owners of each horse shall be listed in the daily program. If space limitations preclude listing of first names, then at least two (2) initials shall precede surnames. Stable names, or corporate names, registered in other racing jurisdictions may be shown parenthetically if program space limitations permit. Lessees licensed as owners shall be designated on the program as lessees of each leased horse.

Section 6. Leases.

(1) A horse may be raced under lease with approval of the stewards, who may suspend or void approval at any time.

(2) No lease may be approved by the stewards for racing purposes unless:

(a) Lessee is licensed as an owner;

(b) Each of the signatures of the lessors and lessees on the lease agreement is subscribed and sworn to before a notary public;

(c) Term of the lease is no less than one (1) year, unless sooner terminated by claim or retirement of the horse;

(d) Conditions of the lease specify whether the horse can be entered in a race to be claimed. If agreeable to lessor that the horse may be entered in a claiming race, then the lease

shall specify the minimum price for which the horse may be entered and the name of the payee of the claiming price;

(e) Conditions of the lease specify that upon claim of the horse, the lease shall terminate and all rights in and to the horse shall pass to claimant as a bona fide purchaser;

(f) After reviewing the full ownership of the leased horse, and the interests of all persons involved in the lease and the term and conditions of the lease, the stewards in their discretion find that the lease:

1. Completely divests lessors or sublessors of further control or direction of the racing performance of the horse while under lease; and

2. The resultant program listing of lessee would not mislead the betting public by reason of the absence in the program listing of the name of a person or persons possessing a beneficial interest in the leased horse.

Section 7. Thoroughbred Racing Colors.

(1) Thoroughbred owners shall be responsible for designing and providing individual racing colors, consisting of jackets and caps of distinctive color and pattern to be worn by jockeys during a race.

(2) The stewards may refuse to permit the use of racing colors that include advertising, or promotions, symbols or words, or which otherwise, in the opinion of the commission, are not in keeping with the traditions of the turf.

(3) No thoroughbred may be raced in racing colors other than those registered in the name of the horse's owner without special permission of the stewards. If an owner races two (2) or more horses in the same race, jackets shall be identical while caps may be varied in color or design.

(4) Owners and trainers shall be jointly responsible for the condition of racing colors, insuring that they are neat, clean, and in good repair, and that an adequate number of sets of racing colors are placed in the care of the clerk of scales.

(5) The clerk of scales and the valet serving a jockey shall be jointly responsible for having the correct jacket and cap on each rider when leaving the jockey room for the paddock.

Section 8. Authorized Agent.

(1) A licensed owner may, as a principal, authorize any person, as an agent, to act on the owner's behalf in all matters pertaining to racing in this state and ownership of horses on association grounds.

(2) A licensed owner shall be jointly liable and responsible with his licensed authorized agent for all acts and omissions of the authorized agent in a racing matter.

Section 9. Suspension. No horse owned wholly or in part by an owner whose license has been suspended shall be permitted to race during such suspension.

Section 10. Partnerships.

(1) Partnerships that own or control a present or reversionary interest in a horse to be raced shall register with the commission.

(2) Partnership papers shall be filed with an owner's license application and shall set forth the following:

(a) The name and address of every person having an interest in the horse involved;

(b) The relative proportion of the interests;

(c) To whom winnings are payable;

(d) In whose name the horse shall run;

- (e) With whom the power of entry and declaration rests;
 - (f) The terms of any contingency, lease, or any other arrangement; and
 - (g) The names of the horses involved.
- (3) All partnership registrations shall be signed by the principal partner or by his authorized agent.
- (4) Any alteration in a recorded partnership shall be reported in writing to the commission and signed by all the partners, or their authorized agent.
- (5) All the parties in a partnership and each of them shall be jointly and severally liable for all stakes, fees, and other obligations.

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 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 sets forth the requirements and responsibilities imposed upon licensed horse owners who participate in racing in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set forth the rules and requirements to participate as a horse owner in horse racing in Kentucky.

(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. KRS 230.310 authorizes the commission to promulgate administrative regulations governing the licensing of participants in horse racing, including horse owners.

(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 setting forth owner requirements that ensure and enhance the integrity of rac-

ing in Kentucky.

(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 is affected by this administrative regulation. In 2017, the Commission issued approximately 7,000 licenses to horse owners participating in racing. This figure 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: Horse owners desiring to participate in racing in Kentucky will be required to obtain a license and adhere to the requirements of 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): An annual thoroughbred owner's license costs \$150, and a Standardbred owner's license costs \$125.

(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 amendment.

(b) On a continuing basis: There is no continuing cost to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any costs incident to the issuance of licenses will be funded through 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 increase in 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 amendment does not establish any new fees or increase any current fees.

(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 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