

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

810 KAR 5:030. Claiming races.

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(3) authorize the commission to regulate conditions under which harness racing shall be conducted in Kentucky. This administrative regulation establishes the requirements for claiming races.

Section 1. (1) A horse entered in a claiming race may be claimed for its entered price by:

(a) A licensed horse owner who has a horse programmed to start in a pari-mutuel race at that meeting;

(b) A licensed horse owner who has received a claim certificate from the commission; or

(c) A person who has qualified for a license as a horse owner and who has received a claim certificate from the commission.

(2) Upon filing a completed signed Authorized Agent form (KHRC 2-060-01) with the judges, an authorized agent may claim for a qualified owner in his own right, but only for the account of the person for whom he is agent.

(3) To qualify for a license as an owner, the applicant shall have a current United States Trotting Association or Standardbred Canada membership as an owner or membership as an associate-member.

(4) A person shall not knowingly effect a false claim by inducing another to claim a horse for him or her.

Section 2. Prohibitions.

(1) A person shall not claim his or her own horse and shall not claim a horse trained or driven by him or her.

(2) A person shall not claim more than one (1) horse in a race.

(3) A qualified owner or the owner's agent shall not claim a horse for another person.

(4) An owner shall not cause his or her horse to be claimed directly or indirectly for his or her own account.

(5) A person shall not offer, or enter into an agreement, to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race.

(6) A person shall not enter a horse that has a mortgage, bill of sale, or lien of any kind pending, unless the written consent of the holder is filed with the clerk of the course of the association conducting that claiming race.

(7) (a) A person shall not have more than one (1) claim on any one (1) horse in any claiming race.

(b) Owners utilizing the same trainer may claim different horses from the same race. The trainer shall not act on behalf of either owner if the trainer has more than one (1) horse in the same race.

Section 3. Claiming Procedure. (1) Owner's credit.

(a) A person submitting a claim shall provide to the association:

1. Proof of possession of a valid license issued by the commission for the current year;

2. An amount equivalent to the specified claiming price plus the existing Kentucky sales tax

as authorized by KRS 139.531(c); and

3. The United States Trotting Association fee for transfer of registration.

(b) By accepting the claim, the association assumes responsibility for and shall make payment to the owner of the horse claimed.

(c) The money due for a claimed horse shall be paid to the owner of the claimed horse within forty-eight (48) hours after the end of the race (Sundays excepted) by the association, if the horse has a current test complying with subsection (14) of this section and if a signed claiming authorization and proper registration papers are provided to the clerk of the course.

(3) The claiming price shall be printed on the program and all claims shall be for the amount so designated and any horse entered in a claiming race may be claimed for the designated amount.

(4) A claim shall be in writing, sealed and deposited at least thirty (30) minutes before the time originally scheduled for the race to begin in a locked box or designated location provided for this purpose by the commission.

(5) The claim shall be examined by the judges or their designee prior to the start of the race. The association's designee shall be prepared to state whether sufficient funds are on deposit in the amount equivalent to the specified claiming price and any other required fees and taxes. The judges shall have a public announcement made and information scrolled on the simulcast video stating there has been a claim made or, in the case of multiple claims, the number of claims made on a horse during the post parade. The successful claimant will be announced after the completion of the race.

(5) An official shall not open the claim box or give any information on claims filed until after the horses leave the paddock for the post parade.

(6) If more than one (1) claim is filed for the same horse, the owner shall be determined by lot by the judges.

(7) A horse claimed shall be delivered immediately by the original owner or his or her trainer to the successful claimant upon authorization of the judges after the post-race tests are finished; and:

(a) The horse's halter shall accompany the horse;

(b) The horse's shoes shall not be altered or removed; and

(c) The hobble measurements of a claimed horse shall be made available to the successful claimant by the paddock judge.

(8) An owner shall not refuse to deliver a horse legally claimed out of a claiming race.

(9)(a) A horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event.

(b) Title to the claimed horse shall be vested in the successful claimant from the time the word "go" is given in the first heat or dash.

(c) The judges 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.

(d) The judges shall not void the claim if, prior to the race in which the horse is claimed, the claimant indicates on the claim envelope 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.

(e) The final vesting of title to a claimed horse shall be subject to the conditions and provisions set forth in this administrative regulation.

(10) (a) The judges may require any person making a claim for a horse to affirm by affidavit

that the claimant is claiming the horse for his or her own account or as authorized agent and not for any other person.

(b) A person shall not knowingly make a false statement regarding the claiming process.

(11) (a) A claimed horse may start in a race in which the claiming price is less than the price at which the horse was claimed.

(b) If a horse is claimed, a right, title, or interest in that horse shall not be sold or transferred except in a claiming race for a period of thirty (30) days following the date of claiming.

(c) A claimed horse shall be required to race at the association where claimed for a period of thirty (30) days or the balance of the current racing meeting, whichever occurs first.

(12) A horse that has been claimed shall not be eligible to start in a race in the name or interest of the previous owner for thirty (30) days. The horse shall not remain in the same stable, or under the care or management of the first owner or trainer, or anyone connected with the previous owner unless reclaimed out of another claiming race.

(13) A horse scratched from a claiming race shall not be eligible to be claimed.

(a) If a horse drawn to start in a claiming race is claimed and has been declared to start in a subsequent race, that horse shall be scratched from that race.

(b) For a period of thirty (30) days, a horse scratched from a claiming race and then entered in a subsequent race (regardless of classification) shall not be eligible to be claimed at any association licensed by the commission for the same claiming price the horse was carrying in the race from which it was scratched, except scratches that were due to and verified as race office errors. The claiming price must be listed in the program where normal claiming prices are carried and announcement of the right to claim is made by the track announcer and scrolled on the simulcast provider.

(14)(a) A claimed horse not otherwise selected by the judges 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 presiding judge.

(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.

(d) An Equine Infectious Anemia (Coggins) test shall not be required of a horse that has been claimed if that horse has a valid certificate stating that within twelve (12) months of the day of the claim the horse has received a Coggins test and is negative for Equine Infectious Anemia. The certificate shall contain the horse's lip tattoo number or a uniform or standardized means of identification approved by the commission.

(15) (a) A filly or mare that has been bred shall not be declared into a claiming race for at least forty-five (45) days following the last breeding of the filly or mare. Following that period, a filly or mare that has been bred shall be declared into a claiming race only after a veterinarian has pronounced the filly or mare not to be in foal.

(b) A filly or mare pronounced in foal shall not be declared into a claiming race.

(c) If a filly or mare is claimed out of a claiming race and subsequently proves to be in foal from a breeding that occurred prior to the race from which she was claimed, the claim may be voided by the judges at the option of the claimant, if the mare is subjected to a pregnancy examination no later than twenty-one (21) days after the date of the claim, and is found to be pregnant as a result of that pregnancy examination.

(d) 1. A claimant seeking to void the claim shall file a petition to void that claim with the

judges within three (3) days after the results of the pregnancy examination are received. Following the filing of the petition, the judges shall conduct a hearing after due notice to all parties.

2. If the judges determine that the claim is void, the claimant shall receive a reasonable cost from the previous owner to cover the cost of the pregnancy examination and reimbursement from the previous owner of all reasonable costs associated with the claiming process and the post-race test, including the costs of transportation, board, reasonable training fees, and the testing process.

Section 4. In accordance with Section 3(1)(b) of this administrative regulation, the association shall pay the claiming price to the owner at the time the registration certificate and a signed claiming authorization are delivered for presentation to the successful claimant and shall withhold and pay the Kentucky sales tax to the Commonwealth pursuant to KRS 139.531(c).

Section 5. Claiming Conditions.

(1) Unless prior approval is given by the presiding judge, claiming races shall be written to separate horses five (5) years and older from younger horses and to separate males from females.

(2) (a) If sexes are mixed, mares shall be given a twenty (20) percent minimum price allowance, except there shall be no price allowance given to a spayed mare racing in a claiming race.

(b) An allowance for age shall be given as follows:

1. Two (2) year olds shall be given a 100 percent allowance;
2. Three (3) year olds shall be given a fifty (50) percent allowance; and
3. Four (4) year olds shall be given a twenty-five (25) percent allowance.

(c) Claiming races for two (2) year olds may have conditions.

(d) Claiming races for three (3) year olds may have conditions.

(e) A claiming class may have conditions, if deemed necessary by the racing secretary and approved by the judges.

Section 6. Except as provided in 810 KAR 5:020, Section 20, a horse owner shall not be prohibited from determining the price for which his horse shall be entered.

Section 7. To facilitate transfer of claimed horses, the presiding judge or racing secretary may sign the transfer if he or she then sends the registration certificate and claiming authorization to the registrar for transfer.

Section 8. Fraudulent Claim.

(1) No person shall fraudulently declare a horse to a claiming race. If the judges determine that the declaration of a horse to a claiming race is fraudulent on the part of the declarer, they shall void the claim at the option of the claimant, and order the horse returned to the person declaring it in.

(2) No person shall submit a fraudulent claim on a horse in a claiming race. If the judges determine that a claim of a horse is fraudulent on the part of the person making the claim, they shall void the claim at the option of the person declaring it in, and return the horse to the person declaring it in.

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 establishes the rules concerning claiming races in standardbred racing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific rules concerning claiming races in standardbred 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 standardbred 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 standardbred 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 two licensed Standardbred 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 drivers, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to claiming races in standardbred 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 racing.

(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 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: 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 amendment 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 gov-

ernment (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