

230.320 Denial, revocation, or suspension of license -- Stay of imposition of stewards' decision -- Review -- Frivolous appeals.

- (1) Every license granted under this chapter is subject to denial, revocation, or suspension, and every licensee or other person participating in Kentucky horse racing may be assessed an administrative fine and required to forfeit or return a purse, by the racing commission in any case where it has reason to believe that any provision of this chapter, administrative regulation, or condition of the racing commission affecting it has not been complied with or has been broken or violated. The racing commission may deny, revoke, or suspend a license for failure by the licensee or other person participating in Kentucky horse racing to pay an administrative fine imposed upon the licensee by the stewards or the racing commission. The racing commission, in the interest of honesty and integrity of horse racing, may 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.
- (2)
 - (a) Following a hearing by the stewards, a person who has been disciplined by a ruling of the stewards may apply to the racing commission for a stay of the ruling, pending action on an appeal by the racing commission.
 - (b) An application for a stay shall be received by the executive director or his designee within ten (10) calendar days of the issuance of the stewards' ruling.
 - (c) An application for a stay shall be in writing and include the following:
 1. The name, address, telephone number, and signature of the person requesting the stay;
 2. A statement of the justification for the stay; and
 3. The period of time for which the stay is requested.
 - (d) On a finding of good cause, the executive director or his designee may grant the stay. The executive director or his designee shall issue a written decision granting or denying the request for stay within five (5) calendar days from the time the application for stay is received by the executive director or his designee. If the executive director or his designee fails to timely issue a written decision, then the stay is deemed granted. The executive director or his designee may rescind a stay granted under this subsection for good cause.
 - (e) A person who is denied a stay by the executive director or his designee, or has a previously granted stay rescinded under paragraph (d) of this subsection, may petition the racing commission to overrule the executive director's or designee's denial or rescission of the stay. The petition shall be filed in writing with the chairperson of the racing commission and received by the chairperson within ten (10) calendar days of the mailing of the executive director's or designee's denial of the stay. The petition shall state the name, address, phone number, and signature of the petitioner; a statement of justification of the stay; and the time period for which the stay is requested. The chairperson shall convene a special meeting of the racing commission within ten (10) calendar

days of receipt of the petition, and the racing commission shall issue a written final order granting or denying the petition within two (2) calendar days of the special meeting. If the racing commission fails to timely issue a final order on the petition, then the stay is granted. The racing commission may rescind a stay granted under this subsection for good cause.

- (f) A person who is denied or has a previously granted stay rescinded by the racing commission may file an appeal of the final written order of the racing commission in the Circuit Court of the county in which the cause of action arose.
- (g) The fact that a stay is granted is not a presumption that the ruling by the stewards is invalid.
- (3) If any license is denied, suspended, or revoked, or if any licensee or other person participating in Kentucky horse racing is assessed an administrative fine or required to forfeit or return a purse, after a hearing by the stewards or by the racing commission acting on a complaint or by its own volition, the racing commission shall grant the applicant, licensee, or other person the right to appeal the decision, and upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) The racing commission may at any time order that any case pending before the stewards be immediately transferred to the racing commission for an administrative hearing conducted in accordance with KRS Chapter 13B.
- (5) (a) In an administrative appeal to the racing commission by a licensee or other person participating in Kentucky horse racing, the racing commission may determine in its final order that the appeal is frivolous. If the racing commission finds that an appeal is frivolous:
 - 1. This fact shall be considered an aggravating circumstance and may be considered in assessing any penalty against the licensee; and
 - 2. The licensee or other person who raised the appeal may be required to reimburse the racing commission for the cost of the investigation of the underlying circumstances of the case and the cost of the adjudication of the appeal. Costs may include but are not limited to fees paid to a hearing officer or court reporter, attorneys fees, and laboratory expenses.
- (b) The racing commission shall by administrative regulation prescribe the conditions or factors by which an appeal may be determined to be frivolous.
- (6) Any administrative action authorized in this chapter shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 457, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 80, sec. 8, effective June 25, 2009. -- Amended 2004 Ky. Acts ch. 191, sec. 13, effective July 13, 2004. -- Amended 1996 Ky. Acts ch. 318, sec. 149, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 109, sec. 22, effective March 30, 1992. -- Amended 1988 Ky. Acts ch. 376, sec. 7, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 100, sec. 4, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 403, sec. 6. -- Created 1960 Ky. Acts ch. 184, sec. 12, effective June 16,

1960.