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MEMORANDUM

TO: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 302 KAR 016:010

DATE: June 15, 2023

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **SEPTEMBER 2023** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on September 15, 2023**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures



1 GENERAL GOVERNMENT

2 Department of Agriculture

3 Office of the Consumer and Environmental Protection

4 (Amendment)

5 302 KAR 16:010. Business registration and permit [~~Business Identification Number~~] for
6 amusement rides or attractions.

7 RELATES TO: KRS 247.234

8 STATUTORY AUTHORITY: KRS 247.234

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.234(2) and (3)(a) require the
10 Commissioner of the Department of Agriculture to promulgate administrative regulations for the
11 process for registering a business and applying for an amusement ride or attraction permit. [~~of~~
12 ~~application for a business identification number.~~] This administrative regulation establishes the
13 criteria for registering a business and obtaining a permit [~~business identification number~~] to
14 operate an amusement ride or attraction.

15 Section 1. Definition. "Permit" [~~"Business identification number"~~] means a number identifying
16 [~~the individual or business entity owner of an amusement ride or amusement attraction and~~] the
17 specific ride or attraction to which it is assigned.

18 Section 2. [(a)] A permit [~~unique business identification number~~] shall be required to operate
19 each applicable amusement ride or amusement attraction in this state, and shall be valid for one
20 (1) year from the date of issuance, in accordance with KRS 247.234(3)(a)(2). A permit [~~business~~
21 ~~identification number~~] shall not be transferred or assigned.

1 Section 3. Procedure for Registering a Business.

2 (1) Every owner of an amusement ride or attraction seeking to operate in Kentucky shall submit:

3 (a) a Business Registration Application; and

4 (b) a Business Registration Fee of fifty (50) dollars.

5 Section ~~4~~³. Procedure for Obtaining a Permit ~~[business identification number]~~.

6 (1) Every owner of an amusement ride or ~~[amusement]~~ attraction seeking to operate in Kentucky
7 shall submit ~~[a business identification number]~~:

8 (a) a Permit Application for Rides and Attractions; ~~[along with]~~

9 (b) a permit fee of five (5) dollars for each ride or device ; and

10 (c) the fee for each required initial safety inspection required by 302 KAR 16:020.

11 (2) (a) The owner of the amusement ride or amusement attraction shall provide a written
12 itinerary indicating:

13 1. The location of the first setup;

14 2. All future operating dates and locations, including addresses;

15 3. The operating period at each location;

16 4. The names of all rides requiring initial safety inspections pursuant to KRS 247.234(3)(b); and

17 5. All rides or attractions being operated at each location.

18 (b) The itinerary shall be delivered to the department at least fourteen (14) days prior to the first
19 scheduled setup and shall be updated in writing immediately if cancellations are made or
20 additional locations added.

21 (c)The itinerary shall be submitted in writing including by facsimile or electronic mail.

(3) Except as established in subsection (4) of this section, the applicant shall provide proof of liability insurance in the amount of at least \$1,000,000 [~~\$500,000~~] per occurrence for bodily injury or death, for each amusement ride or amusement attraction.

(a) The proof of insurance shall include a statement that the insurer shall not cancel the policy without at least thirty (30) days written notice to the commissioner.

(b) Proof of insurance shall be either the policy or a certified statement issued by the insurer and shall include:

1. A listing of all amusement rides and amusement attractions insured; or

2. A statement that all amusement rides and amusement attractions operated under the supervision of the insured are covered in the policy.

(4) If the applicant's amusement rides or amusement attractions are permanently located or erected, the applicant may, instead of providing proof of liability insurance, provide proof of financial responsibility in at least the amount of \$1,000,000 [~~\$500,000~~] on or before the date of the initial safety inspection. Proof of financial responsibility shall be shown by:

(a) Proof of liability insurance of at least \$1,000,000 [~~\$500,000~~] per occurrence for bodily injury or death;

(b) A financial statement, certified by a licensed certified public accountant, dated no more than thirty (30) days prior to the application date, indicating a net worth of at least \$1,000,000 [~~\$500,000~~] or more in assets located in the state; or

(c) An irrevocable letter of credit to the department in the amount of at least \$1,000,000 [~~\$500,000~~].

1 Section 5 [4]. Upon receipt of a complete application, applicable fees, proof of liability insurance
2 or financial responsibility, and a complete itinerary, a permit [~~business identification number~~]
3 shall be issued to [~~in the name of~~] the applicant.

4 (1) If all items required by this section are not physically available to the inspector when the
5 initial safety inspection takes place, the inspector shall not perform the initial safety inspection
6 and a permit [~~business identification number~~] shall not be issued.

7 [~~(2) The business identification number certificate shall be available for inspection at all times.~~

8 [~~(3) If the business identification number holder is operating in multiple locations, a clear and~~
9 ~~legible copy of the business identification number shall be displayed.]~~

10 Section 6 [5]. Incorporation by Reference.

11 (1) The following material is incorporated by reference:

12 (a) "Business Registration Form", 6/23;

13 [~~(a)~~](b) " Amusement Ride and Attraction Permit [Business Identification Number] Application
14 [for Rides and Attractions]", 6/23;

15 [~~(b)~~](c) "Itinerary Mobile Operators", 03/03; and

16 [~~(c)~~](d) "Itinerary Permanent Fixed Locations", 03/03.

17 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
18 the Department of Agriculture, Division of Regulation and Inspection, 107 Corporate Drive,
19 Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.



Dr. Ryan Quarles
Commissioner of Agriculture

Date: 6/14/23

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on August 22, 2023 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

302 KAR 16:010

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation creates the process for business registration and permit application.

(b) The necessity of this administrative regulation:

This regulation creates rules for application to the KDA to become a permit holder.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The statutes charge the KDA with creating rules for application for a permit, and this filing satisfies that charge.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This filing makes clear for all entities the application process to the KDA.

(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 filing updates references and creates an application and permit fee. It increases the insurance requirement.

(b) The necessity of the amendment to this administrative regulation:

This filing updates references do to statute changes.

(c) How the amendment conforms to the content of the authorizing statutes:

This filing updates references do to statute changes.

(d) How the amendment will assist in the effective administration of the statutes:

This filing will make the regulation clearer and easier to understand.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The KDA has 532 active companies and 4232 active devices currently regulated.

(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:

Entities seeking a permit will need to follow the steps in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

An application and permit fee are now required. Permit holders will need to carry the proper amount of insurance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The permit holder will be able to lawfully operate.

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

(a) Initially: The KDA estimates \$530,000 total annually.

(b) On a continuing basis: The KDA estimates at least \$530,000 total annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

A combination of fees and the KDA general fund.

(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:

Fees are established to help offset program costs.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This filing does establish fees directly.

(9) TIERING: Is tiering applied? (Explain why or why not)

No, all entities are treated the same.

FISCAL NOTE

302 KAR 16:010

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(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 KDA.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 247.232-.236

(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?

The KDA expects to receive \$110,000 annually at current participation levels.

(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?

The KDA expects to receive \$110,000 annually at current participation levels.

(c) How much will it cost to administer this program for the first year?

The cost to administer this regulation is approximately \$530,000.

(d) How much will it cost to administer this program for subsequent years?

The cost to administer for subsequent years is estimated to be at least \$530,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

No cost savings are anticipated for this filing.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

No cost savings are anticipated for this filing.

(c) How much will it cost the regulated entities for the first year?

No changes in costs are anticipated, other than the application and permit fees.

(d) How much will it cost the regulated entities for subsequent years?

No changes in costs are anticipated, other than the application and permit fees.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

Fees will not exceed the major economic impact threshold.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

302 KAR 16:010

- (a) The "Amusement Ride and Attraction Business Registration Form ", (2023) is a 1 page document containing questions required to be completed for registering a business.
- (b) The "Amusement Ride and Attraction Permit Application for Rides and Attractions ", (2023) is a 1 page document containing documentation required to apply for a permit with the KDA.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

- (1) The "Amusement Ride and Attraction Permit Application", (2023) is a 1 page document containing documentation required to apply for a permit with the KDA. This form has changes its name and references to Permit instead of Business Identification Number to comply with recent statutory name changes.



KENTUCKY DEPARTMENT OF AGRICULTURE

Rev 6-23

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AMUSEMENT RIDE AND ATTRACTION BUSINESS REGISTRATION FORM

KRS 247.234(1) requires every owner of an amusement ride or attraction business to register the business with the department annually. 302 KAR 16:010 required an annual \$50 registration fee for amusement ride or attraction businesses.

Applicant Name _____

Applicant Residential Address _____

Applicant City, State, ZIP _____ Applicant Email _____

Applicant Telephone _____ Emergency Telephone _____

☐

PERMANENT facility

BUSINESS LOCATION:

☐

MOBILE device/facility

☐ **FEE:** \$ 50.00 Annual Amusement Ride and Attraction Business Registration Fee.
Make check payable to Kentucky State Treasurer.

Applicant Signature

Applicant Printed Name

Date



KENTUCKY DEPARTMENT OF AGRICULTURE

Rev 6-23

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AMUSEMENT RIDE AND ATTRACTION PERMIT APPLICATION FORM

Applicant Name _____

Applicant Residential Address _____

Applicant City, State, ZIP _____ Applicant Email _____

Applicant Telephone _____ Emergency Telephone _____

☐ **PERMANENT facility**

BUSINESS LOCATION:

☐ **MOBILE device/facility**

ATTACH: ITINERARY of all planned **DATES** and
LOCATIONS OF OPERATION in Kentucky during permit year.

NOTE: List may be updated throughout the permit year,
with notice to the Department **PRIOR** to operation.

PROVIDE

Name of amusement ride or attraction manufacturer: _____

Serial number(s) of all devices (attach list if necessary): _____

Total number of rides or attractions to be registered: _____

ATTACHED/PROVIDED (*check all*):

☐ **Certificate of Liability Insurance** as required in KRS 247.234 Section 3(c), including:

☐ Name of liability insurance carrier(s) _____

☐ Policy number(s) _____

☐ **FEES** : \$5.00 per amusement ride or attraction.

\$_____ Total fees attached. Make check payable to Kentucky State Treasurer.

Applicant Signature

Applicant Printed Name

Date