

SENATE BILL No. 193

By Senator Hensley

2-10

AN ACT concerning the Kansas lottery; creating the electronic gaming commission to study the operation of electronic gaming machines at parimutuel racetrack facilities and provide a mechanism for the implementation thereof; amending K.S.A. 74-8702 and K.S.A. 2002 Supp. 46-237a and 46-247 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-8702 is hereby amended to read as follows: 74-8702. As used in the Kansas lottery act, unless the context otherwise requires:

(a) "Commission" means the Kansas lottery commission.

(b) "Executive director" means the executive director of the Kansas lottery.

~~(c) "Gaming equipment" means any electric, electronic or mechanical device or other equipment unique to the Kansas lottery used directly in the operation of any lottery and in the determination of winners pursuant to this act.~~

(c) "Gaming equipment" means any electric, electronic, computerized or electromechanical machine, mechanism, supply or device, or any other equipment, which is: (1) Unique to the Kansas lottery and used pursuant to the Kansas lottery act; (2) integral to the operation of an electronic gaming machine; or (3) affects the results of an electronic gaming machine by determining win or loss.

(d) "Kansas lottery" means the state agency created by this act to operate a lottery or lotteries pursuant to this act.

(e) "Lottery retailer" means any person with whom the Kansas lottery has contracted to sell lottery tickets or shares, or both, to the public.

(f) "Lottery" or "state lottery" means the lottery or lotteries operated pursuant to this act.

(g) "Major procurement" means any gaming product or service, including but not limited to facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies.

1 (h) "Person" means any natural person, association, *limited liability*
2 *company*, corporation or partnership.

3 (i) "Prize" means any prize paid directly by the Kansas lottery pur-
4 suant to its rules and regulations.

5 (j) "Share" means any intangible manifestation authorized by the
6 Kansas lottery to prove participation in a lottery game.

7 (k) "Ticket" means any tangible evidence issued by the Kansas lottery
8 to prove participation in a lottery game.

9 (l) "Vendor" means any person who has entered into a major pro-
10 curement contract with the Kansas lottery.

11 (m) "Returned ticket" means any ticket which was transferred to a
12 lottery retailer, which was not sold by the lottery retailer and which was
13 returned to the Kansas lottery for refund by issuance of a credit or
14 otherwise.

15 (n) "Video lottery machine" means any electronic video game ma-
16 chine that, upon insertion of cash, is available to play or simulate the play
17 of a video game authorized by the commission, including but not limited
18 to bingo, poker, black jack and keno, and which uses a video display and
19 microprocessors and in which, by chance, the player may receive free
20 games or credits that can be redeemed for cash.

21 (o) (1) "Lottery machine" means any machine or device that allows
22 a player to insert cash or other form of consideration and may deliver as
23 the result of an element of chance, regardless of the skill required by the
24 player, a prize or evidence of a prize, including, but not limited to:

25 (A) Any machine or device in which the prize or evidence of a prize
26 is determined by both chance and the player's or players' skill, including,
27 but not limited to, any machine or device on which a lottery game or
28 lottery games, such as poker or blackjack, are played;

29 (B) any machine or device in which the prize or evidence of a prize
30 is determined only by chance, including, but not limited to, any slot ma-
31 chine or bingo machine; or

32 (C) any lottery ticket vending machine, such as a keno ticket vending
33 machine, pull-tab vending machine or an instant-bingo vending machine.

34 (2) "Lottery machine" shall not mean:

35 (A) Any food vending machine defined by K.S.A. 36-501, and amend-
36 ments thereto;

37 (B) any nonprescription drug machine authorized under K.S.A. 65-
38 650, and amendments thereto;

39 (C) any machine which dispenses only bottled or canned soft drinks,
40 chewing gum, nuts or candies; or

41 (D) any machine excluded from the definition of gambling devices
42 under subsection (d) of K.S.A. 21-4302, and amendments thereto.

43 (p) "*Electronic gaming machine*" means any *electronic, electrome-*

1 *chanical, video or computerized device, contrivance or machine author-*
2 *ized by the Kansas lottery which, upon insertion of cash, tokens, electronic*
3 *cards or any consideration, is available to play, operate or simulate the*
4 *play of a game authorized by the Kansas lottery including, but not limited*
5 *to, bingo, poker, blackjack, keno and slot machines, and which may deliver*
6 *or entitle the player operating the machine to receive cash, tokens, mer-*
7 *chandise or credits that may be redeemed for cash. Electronic gaming*
8 *machines may use bill validators and may be single-position reel-type,*
9 *single or multi-game video and single position multi-game video electronic*
10 *game, including but not limited to, poker, blackjack and slot machines.*
11 *Electronic gaming machines shall be directly linked to a central computer*
12 *at a location determined by the executive director for purposes of security,*
13 *monitoring and auditing.*

14 (q) “Net machine income” means the total of all cash and the face
15 value of all tokens or electronic cards placed in an electronic gaming
16 machine, less cash, merchandise or credits that may be redeemed for cash
17 paid to players as winnings.

18 New Sec. 2. (a) The board of county commissioners of any county
19 where there is a parimutuel racetrack facility may submit by resolution,
20 and shall submit upon presentation of a petition filed in accordance with
21 subsection (b), to the qualified voters of the county a proposition to ap-
22 prove the formation of a commission to propose a plan for the operation
23 by the Kansas lottery of electronic gaming machines at parimutuel race-
24 track facilities. The proposition shall be submitted to the voters either in
25 a countywide special election called by the board of county commissioners
26 for that purpose within 90 days of the passage of such resolution or filing
27 of such petition or at the next general election.

28 (b) A petition to submit a proposition to the qualified voters of a
29 county pursuant to this section shall be filed with the county election
30 officer. The petition shall be signed by qualified voters of the county equal
31 in number to not less than 10% of the voters of the county who voted for
32 the office of secretary of state at the last preceding general election at
33 which such office was elected. The following shall appear on the petition:
34 “We request an election to determine whether the electronic gaming
35 commission shall be created to adopt a plan for the operation of electronic
36 gaming machines by the Kansas Lottery at parimutuel racetrack
37 facilities.”

38 (c) Upon the adoption of a resolution or the submission of a valid
39 petition calling for an election pursuant to this section, the county election
40 officer shall cause the following proposition to be placed on the ballot at
41 the election called for that purpose: “Shall the electronic gaming com-
42 mission be created to adopt a plan for the operation of electronic gaming
43 machines by the Kansas Lottery at parimutuel racetrack facilities?”

1 (d) If a majority of the votes cast and counted at such election is in
2 favor of the creation of the electronic gaming commission, the governor
3 shall appoint such commission as provided in section 3, and amendments
4 thereto. The county election officer shall transmit a copy of the certifi-
5 cation of the results of the election to the governor. The governor shall
6 make all appointments to the electronic gaming commission within 30
7 days of receiving a certification from a county election officer certifying
8 the passage of the proposition described in subsection (c).

9 (e) The election provided for by this section shall be conducted, and
10 the votes counted and canvassed, in the manner provided by law.

11 New Sec. 3. (a) If a majority of the electors voting in the election
12 held pursuant to section 2, and amendments thereto, vote in favor of the
13 proposition to create the electronic gaming commission, the governor
14 shall appoint a seven member commission to study and make recom-
15 mendations regarding the operation by the Kansas lottery of electronic
16 gaming machines at parimutuel racetrack facilities in the state. If less than
17 a majority of the electors vote to approve the creation of the commission,
18 the remainder of this act shall be inapplicable and another such election
19 may not be held for four years. Not more than four members shall be
20 from the same political party. Members of the commission shall include,
21 but not be limited to: the executive director of the Kansas lottery; the
22 executive director of the Kansas racing and gaming commission; persons
23 with expertise in the racing and gaming industry; and local government
24 officials from counties in which a parimutuel racetrack facility is located.
25 The governor shall designate one person as the chair of the commission.
26 Members of the commission shall be paid expenses as provided by K.S.A.
27 75-3223 and amendments thereto. The office of the revisor of statutes
28 and the legislative research department shall provide such staff support
29 as may be required by the commission. The commission shall organize
30 and adopt rules governing its meetings and deliberations.

31 (b) The electronic gaming commission shall prepare and adopt a plan
32 addressing the operation of electronic gaming machines at any and all
33 parimutuel racetrack facilities operating within the state. The electronic
34 gaming commission shall conduct such studies and seek out such infor-
35 mation as it deems most suitable for drafting the plan. The plan shall: (1)
36 Establish the percentage of net machine proceeds which shall constitute
37 management fee for the parimutuel licensees; (2) describe what purse
38 supplements shall be paid to the horse and greyhound breed funds; (3)
39 provide a regulatory system that provides for secure and honest gaming;
40 (4) allocate the remaining net machine income; (5) provide for minimum
41 numbers of races that must be conducted at a parimutuel racing facility;
42 (6) establish a beginning date for operation of the electronic gaming ma-
43 chines; (7) establish the minimum payout to players from electronic gam-

1 ing machines; and (8) any other provisions that may be necessary to the
2 operation of electronic gaming machines at parimutuel racetrack facilities.

3 (c) Within 90 days of the appointment of its final member, the elec-
4 tronic gaming commission shall adopt a preliminary report and shall hold
5 a public hearing inviting comments with regard to its recommendations.
6 Within 30 days following such public hearing, the commission shall adopt
7 a final report containing such provisions as the electronic gaming com-
8 mission deems appropriate and shall deliver such report to the legislative
9 coordinating council.

10 (d) Unless the legislature, by concurrent resolution adopted on or
11 before adjournment sine die of the 2004 legislative session, rejects such
12 plan, the operation of electronic gaming machines shall be allowed in the
13 manner provided by the plan. If the legislature passes such a resolution,
14 the operation of electronic gaming machines shall not be allowed.

15 (e) The provisions of this act shall be deemed a delegation of legis-
16 lative authority subject to ratification by the legislature pursuant to sub-
17 section (d).

18 New Sec. 4. (a) If the operation of electronic gaming machines is
19 authorized at parimutuel racetrack facilities, pursuant to this act, any
20 county which has not held an election pursuant to section 2, and amend-
21 ments thereto, may submit by resolution, and shall submit upon pres-
22 entation of a petition filed in accordance with subsection (b), to the qual-
23 ified voters of the county a proposition to approve the operation by the
24 Kansas lottery of electronic gaming machines at parimutuel racetrack fa-
25 cilities.

26 (b) A petition to submit a proposition to the qualified voters of a
27 county pursuant to this section shall be filed with the county election
28 officer. The petition shall be signed by qualified voters of the county equal
29 in number to not less than 10% of the voters of the county who voted for
30 the office of secretary of state at the last preceding general election at
31 which such office was elected. The following shall appear on the petition:
32 “We request an election to determine whether to allow the operation of
33 electronic gaming machines by the Kansas Lottery at parimutuel race-
34 track facilities in _____ county.”

35 (c) Upon the adoption of a resolution or the submission of a valid
36 petition calling for an election pursuant to this section, the county election
37 officer shall cause the following proposition to be placed on the ballot at
38 the election called for that purpose: “Shall the operation of electronic
39 gaming machines by the Kansas Lottery at parimutuel racetrack facilities
40 be allowed in _____ county?”

41 (d) If a majority of the votes cast and counted at such election is in
42 favor of the proposition as set forth in subsection (c), the Kansas lottery
43 shall be authorized to operate electronic gaming machines under the

1 terms and conditions of the plan adopted pursuant to section 3, and
2 amendments thereto. The county election officer shall transmit a copy of
3 the certification of the results of the election to the executive director of
4 the Kansas lottery and the executive director of the Kansas racing and
5 gaming commission.

6 (e) The election provided for by this section shall be conducted, and
7 the votes counted and canvassed, in the manner provided by law.

8 Sec. 5. K.S.A. 2002 Supp. 46-237a is hereby amended to read as
9 follows: 46-237a. (a) The provisions of this section shall apply to:

- 10 (1) The governor;
- 11 (2) the lieutenant governor;
- 12 (3) the governor's spouse;
- 13 (4) all officers and employees of the executive branch of state gov-
14 ernment; and
- 15 (5) all members of boards, commissions and authorities of the exec-
16 utive branch of state government, *including the electronic gaming com-
17 mission established pursuant to section 3, and amendments thereto.*

18 (b) No person subject to the provisions of this section shall solicit or
19 accept any gift, economic opportunity, loan, gratuity, special discount or
20 service provided because of such person's official position, except:

- 21 (1) A gift having an aggregate value of less than \$40 given at a cere-
22 mony or public function where the person is accepting the gift in such
23 person's official capacity; or
- 24 (2) gifts from relatives or gifts from personal friends when it is ob-
25 vious to the person that the gift is not being given because of the person's
26 official position; or
- 27 (3) anything of value received by the person on behalf of the state
28 that inures to the benefit of the state or that becomes the property of the
29 state; or
- 30 (4) contributions solicited on behalf of a nonprofit organization which
31 is exempt from taxation under paragraph (3) of subsection (c) of section
32 501 of the internal revenue code of 1986, as amended.

33 (c) No person subject to the provisions of this section shall solicit or
34 accept free or special discount meals from a source outside of state gov-
35 ernment, except:

- 36 (1) Meals, the provision of which is motivated by a personal or family
37 relationship or provided at events that are widely attended. An occasion
38 is "widely attended" when it is obvious to the person accepting the meal
39 that the reason for providing the meal is not a pretext for exclusive or
40 nearly exclusive access to the person;
- 41 (2) meals provided at public events in which the person is attending
42 in an official capacity;
- 43 (3) meals provided to a person subject to this act when it is obvious

1 such meals are not being provided because of the person's official posi-
2 tion; and

3 (4) food such as soft drinks, coffee or snack foods not offered as part
4 of a meal.

5 (d) No person subject to the provisions of this section shall solicit or
6 accept free or special discount travel or related expenses from a source
7 outside state government, except:

8 (1) When it is obvious to the person accepting the same that the free
9 or special discount travel and related expenses are not being provided
10 because of the person's official position; or

11 (2) when the person's presence at a meeting, seminar or event serves
12 a legitimate state purpose or interest and the person's agency authorizes
13 or would authorize payment for such travel and expenses.

14 (e) No person subject to the provisions of this section shall solicit or
15 accept free or special discount tickets or access to entertainment or sport-
16 ing events or activities such as plays, concerts, games, golf, exclusive swim-
17 ming, hunting or fishing or other recreational activities when the free or
18 special discount tickets or access are provided because of the person's
19 official position. The provisions of this subsection shall not apply to per-
20 sons whose official position requires or obliges them to be present at such
21 events or activities.

22 (f) (1) Violations of the provisions of this section by any classified
23 employee in the civil service of the state of Kansas shall be considered
24 personal conduct detrimental to the state service and shall be a basis for
25 suspension, demotion or dismissal, subject to applicable state law.

26 (2) Violations of the provisions of this section by any unclassified em-
27 ployee shall subject such employee to discipline up to and including
28 termination.

29 (3) In addition to the penalty prescribed under paragraphs (1) and
30 (2), the commission may assess a civil fine, after proper notice and an
31 opportunity to be heard, against any person for a violation of this section,
32 in an amount not to exceed \$5,000 for the first violation, not to exceed
33 \$10,000 for the second violation and not to exceed \$15,000 for the third
34 violation and for each subsequent violation. All fines assessed and col-
35 lected under this section shall be remitted to the state treasurer in ac-
36 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.
37 Upon receipt of each such remittance, the state treasurer shall deposit
38 the entire amount in the state treasury to the credit of the governmental
39 ethics fee fund established by K.S.A. 25-4119e, and amendments thereto.

40 Sec. 6. K.S.A. 2002 Supp. 46-247 is hereby amended to read as fol-
41 lows: 46-247. The following individuals shall file written statements of
42 substantial interests, as provided in K.S.A. 46-248 to 46-252, inclusive,
43 and amendments thereto:

1 (a) Legislators and candidates for nomination or election to the
2 legislature.

3 (b) Individuals holding an elected office in the executive branch of
4 this state, and candidates for nomination or election to any such office.

5 (c) State officers, employees and members of boards, councils and
6 commissions under the jurisdiction of the head of any state agency who
7 are listed as designees by the head of a state agency pursuant to K.S.A.
8 46-285, and amendments thereto.

9 (d) Individuals whose appointment to office is subject to confirmation
10 by the senate whether or not such individual is a state officer or employee.

11 (e) General counsels for state agencies irrespective of how
12 compensated.

13 (f) The administrator or executive director of the education commis-
14 sion of the states, the interstate compact on agricultural grain marketing,
15 the Mo-Kan metropolitan development district and agency compact, the
16 Kansas City area transportation district and authority compact, the mid-
17 west nuclear compact, the central interstate low-level radioactive waste
18 compact, the multistate tax compact, the Kansas-Oklahoma Arkansas river
19 basin compact, the Kansas-Nebraska Big Blue river compact, *members of*
20 *the electronic gaming commission* and the multistate lottery.

21 (g) Private consultants under contract with any agency of the state of
22 Kansas to evaluate bids for public contracts or to award public contracts.

23 (h) From and after January 1, 2003, any faculty member or other
24 employee of a postsecondary educational institution as defined by K.S.A.
25 74-3201b, and amendments thereto, who provides consulting services and
26 who, on behalf of or for the benefit of the person for which consulting
27 services are provided:

28 (1) Promotes or opposes action or nonaction by any federal agency,
29 any state agency as defined by K.S.A. 46-224, and amendments thereto,
30 or any political subdivision of the state or any agency of such political
31 subdivision or a representative of such state agency, political subdivision
32 or agency; or

33 (2) promotes or opposes action or nonaction relating to the expend-
34 iture of public funds of the federal government, the state or political
35 subdivision of the state or agency of the federal government, state or
36 political subdivision of the state.

37 Sec. 7. K.S.A. 74-8702 and K.S.A. 2002 Supp. 46-237a and 46-247
38 are hereby repealed.

39 Sec. 8. This act shall take effect and be in force from and after its
40 publication in the Kansas register.

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