

SENATE BILL No. 271

By Committee on Ways and Means

3-24

AN ACT concerning lotteries; authorizing electronic gaming machines and other lottery games at certain locations; amending K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp. 79-4805 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.

(h) "Person" means any natural person, association, *limited liability*

1 *company*, corporation or partnership.

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

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

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

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

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

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

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

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

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

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

33 (2) “Lottery machine” shall not mean:

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

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

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

40 (D) *any electronic gaming machine operated in accordance with the*
41 *provisions of the Kansas gaming act; or*

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

1 (p) “Electronic gaming machine” means any electronic, electromechanical, video or computerized device, contrivance or machine authorized by the Kansas lottery which, upon insertion of cash, tokens, electronic cards or any consideration, is available to play, operate or simulate the play of a game authorized by the Kansas lottery pursuant the Kansas gaming act, including, but not limited to, bingo, poker, blackjack, keno and slot machines, and which may deliver or entitle the player operating the machine to receive cash, tokens, merchandise or credits that may be redeemed for cash. Electronic gaming machines may use bill validators and may be single-position reel-type, single or multi-game video and single-position multi-game video electronic game, including but not limited to, poker, blackjack and slot machines. Electronic gaming machines shall be directly linked to a central computer at a location determined by the executive director for purposes of security, monitoring and auditing.

15 (q) “Key gaming employee” means any natural person 21 years of age or older employed by or under contract with a lottery gaming machine contractor or employed by or under contract with a person providing on or off-site management or employee-related services to the lottery gaming machine contractor, including, but not limited to: (1) Gaming machine contractor manager and assistant manager; (2) facilities operator manager; (3) electronic games manager; (4) accounting department personnel; (5) count room employees; (6) cage department employees, including cashiers and main bank employees; (7) vault department employees; (8) approvers of credit; (9) surveillance department employees; (10) security department employees; (11) floor managers; (12) electronic gaming machine technicians; (13) custodians of electronic gambling machines, including persons with access to cash and accounting records within such machines; (14) collection personnel; (15) internal auditors of the lottery gaming machine contractor; (16) any employee whose total cash compensation is in excess of \$50,000 per year; and (17) any other type of employee specified by the executive director.

32 (r) “Lottery gaming machine contractor” means any person with which the executive director has contracted to operate electronic gaming machines pursuant to section 3, and amendments thereto.

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

39 (t) “Progressive electronic game” means a game played on an electronic gaming machine for which the payoff increases uniformly as the game is played and for which the jackpot, determined by application of a formula to the income of independent, local or interlinked electronic gaming machines, may be won.

1 (u) *“Technology provider” means any person or entity other than a*
2 *lottery gaming machine contractor that designs, manufactures, installs,*
3 *operates, distributes, supplies or replaces an electronic gaming machine*
4 *for sale, lease or use in accordance with this act.*

5 (v) *“Token” means a metal or other representative of value, which is*
6 *not legal tender, redeemable for cash only by the issuing lottery gaming*
7 *machine contractor and which issued and sold by a lottery gaming ma-*
8 *chine contractor for the sole purpose of playing an electronic gaming*
9 *machine.*

10 (w) *“Gaming Train” means a railroad company as defined by K.S.A.*
11 *66-180, and amendments thereto, which provides passenger service and*
12 *which has entered into a contract with the executive director to operate*
13 *electronic gaming machines and other lottery games authorized by the*
14 *executive director.*

15 New Sec. 2. (a) Sections 2 through 20, and amendments thereto,
16 shall be known as the Kansas gaming act and shall be part of and supple-
17 mental to the Kansas lottery act.

18 (b) If any provision of this act or the application thereof to any person
19 or circumstance is held invalid, the invalidity shall not affect any other
20 provision or application of the act which can be given effect without the
21 invalid provision or application.

22 New Sec. 3. (a) The executive director may contract with parimutuel
23 licensees for the operation and management, by the state of Kansas, of
24 electronic gaming machines and other lottery games on gaming trains.
25 Such contracts shall be subject to the provisions of this act and rules and
26 regulations adopted under this act but shall not be subject to the provi-
27 sions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

28 (b) The executive director shall select as lottery gaming machine con-
29 tractors such persons as the executive director deems best able to serve
30 the public convenience and promote marketing plans developed by the
31 Kansas lottery. In the selection of lottery gaming machine contractors,
32 the executive director shall consider factors such as financial responsibil-
33 ity, security of the licensee location, integrity, reputation, volume of ex-
34 pected sales and such other factors as the executive director may deem
35 appropriate.

36 (c) The executive director may charge an administrative application
37 fee, reasonably related to the costs of processing the application, to ap-
38 plicants to become lottery gaming machine contractors.

39 (d) A contract shall not constitute property, nor shall it be subject to
40 attachment, garnishment or execution, nor shall it be alienable or trans-
41 ferable, except upon approval by the executive director, or subject to
42 being encumbered or hypothecated. No interest in the contract shall de-
43 scend by the laws of testate or intestate devolution but any interest shall

1 cease and expire upon the death of the lottery machine contractor or
2 interest holders in the lottery machine contractor except that executors,
3 administrators or representatives of the estate of any deceased contractor
4 and the trustee of any insolvent or bankrupt licensee may continue to
5 operate pursuant to the contract under order of the appropriate court for
6 no longer than one year after the death, bankruptcy or insolvency of such
7 licensee.

8 (e) Each lottery gaming machine contractor shall be issued a lottery
9 gaming machine contractor certificate which shall be conspicuously dis-
10 played at the place where the lottery gaming machine contractor is au-
11 thorized to operate and manage electronic gaming machines.

12 (f) To be selected as a lottery gaming machine contractor, a person
13 must:

14 (1) Have sufficient financial resources to support the activities re-
15 quired under this act; and

16 (2) be current in filing all applicable tax returns and in payment of
17 all taxes, interest and penalties owed to the state of Kansas, excluding
18 items under formal appeal pursuant to applicable statutes.

19 (g) The lottery gaming machine contractor, at its own expense, shall
20 purchase for the Kansas lottery a license for all software programs used
21 by such lottery gaming machine contractor to operate electronic gaming
22 machines. The Kansas lottery shall be the licensee and owner of all such
23 software programs and shall sublicense such software programs to each
24 lottery gaming machine contractor. A lottery gaming machine contractor
25 may own or lease, on behalf of the Kansas lottery and at the contractor's
26 own expense, electronic gaming machines or the Kansas lottery with the
27 consent of the contractor may lease such machines, subject to reimburse-
28 ment of the Kansas lottery by the contractor for all expenses related to
29 leasing, installing, operating and managing such machines. Electronic
30 gaming machines purchased or leased by the lottery gaming machine
31 contractor, at its own expense, may be installed, operated or managed,
32 owned or leased by a lottery gaming machine contractor or by a tech-
33 nology provider under contract with the lottery gaming machine contrac-
34 tor as provided by this act. All electronic gaming machines under this act
35 shall be subject to the ultimate control of the Kansas lottery in accordance
36 with this act. Each specific type of electronic gaming machine shall be
37 approved by the Kansas lottery in accordance with K.S.A. 74-8710, and
38 amendments thereto. The use of progressive electronic gaming machines
39 is expressly permitted.

40 (h) Each contract between the Kansas lottery and a lottery gaming
41 machine contractor shall provide that the Kansas lottery shall receive all
42 of the net machine income derived from the operation of electronic gam-
43 ing machines on gaming trains.

1 (i) Contracts authorized by this section may include provisions relat-
2 ing to:

3 (1) Accounting procedures to determine the net machine income,
4 unclaimed merchandise and credits.

5 (2) The location and operation of electronic gaming machines on
6 gaming trains. Except as provided by this act, the days and hours of op-
7 eration and the number of such electronic gaming machines shall not be
8 restricted.

9 (3) Minimum requirements for an electronic gaming machine con-
10 tractor to provide qualified oversight, security and supervision of the op-
11 eration of electronic gaming machines on gaming trains, including the use
12 of qualified personnel with experience in applicable technology.

13 (4) The eligibility requirements for employees of a lottery gaming
14 machine contractor who will have responsibility for the handling of cash
15 or tokens. Such requirements may include a background investigation
16 performed by the Kansas lottery and that any key gaming employee shall
17 be licensed as provided by the Kansas gaming act.

18 (5) Provision for termination of the contract by either party for cause,
19 including but not limited to, failure of the lottery gaming machine con-
20 tractor to maintain a parimutuel license in accordance with K.S.A. 74-
21 8801 *et seq.*, and amendments thereto, failure of the lottery gaming ma-
22 chine contractor to collect and remit net machine income as required by
23 the Kansas gaming act.

24 (6) Any other provision deemed necessary by the parties pursuant to
25 this section.

26 (j) The initial term of a contract pursuant to this section shall be not
27 less than the remaining term of the Kansas lottery. Such contract may be
28 renewed with each extension of the Kansas lottery as provided in K.S.A.
29 74-8723, and amendments thereto.

30 (k) (1) The Kansas lottery shall examine prototypes of electronic
31 gaming machines and shall notify the Kansas racing and gaming commis-
32 sion which such types of electronic gaming machines are in compliance
33 with the requirements of this act.

34 (2) Each electronic gaming machine shall have the certificate prom-
35 inently displayed thereon. Any machine which does not display the cer-
36 tificate required by this section is contraband and a public nuisance sub-
37 ject to confiscation by any law enforcement officer.

38 (3) The executive director shall require any manufacturer, supplier,
39 provider, lottery gaming machine contractor or other person seeking the
40 examination and certification of electronic gaming machines to pay the
41 anticipated actual costs of the examination in advance. After the comple-
42 tion of the examination, the executive director shall refund any overpay-
43 ment or charge and collect amounts sufficient to reimburse the executive

1 director for any underpayment of actual costs. The executive director may
2 contract for the examination of electronic gaming machines as required
3 by this subsection, and may rely upon testing done by or for other states
4 regulating electronic gaming machines, if the executive director deems
5 such testing to be reliable and in the best interest of the state of Kansas.

6 (l) Electronic gaming machines operated pursuant to this act shall:

7 (1) Pay out an average of not less than 87% of the amount wagered
8 over the life of the machine;

9 (2) be directly linked to a central lottery communications system to
10 provide auditing and other program information as approved by the Kan-
11 sas lottery. The executive director shall select the computer system most
12 suitable for conducting the monitoring and auditing functions required
13 by this act. The communications systems certified by the Kansas lottery
14 shall not limit participation to only one electronic gaming machine man-
15 ufacturer, distributor, supplier or provider; and

16 (3) be on-line and in constant communication with a central com-
17 puter located at a location determined by the executive director. The
18 lottery gaming machine contractor shall lease or purchase at its own ex-
19 pense for the Kansas lottery all gaming equipment necessary to imple-
20 ment such central communications and auditing functions.

21 (m) No employee, contractor or other person in any way affiliated
22 with a lottery gaming machine contractor shall loan money to or otherwise
23 extend credit to patrons of a parimutuel licensee location.

24 New Sec. 4. In addition to the powers granted pursuant to K.S.A.
25 74-8704 and section 3, and amendments thereto, the executive director
26 shall have the power to:

27 (a) Enter into contracts for placement and replacement of electronic
28 gaming machines on gaming trains. Such contracts shall be subject to
29 rules and regulations adopted pursuant to the Kansas gaming act, but
30 shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744,
31 and amendments thereto.

32 (b) Examine or cause to be examined by any agent or representative
33 designated by the executive director any books, papers, records or mem-
34 oranda of any lottery gaming machine contractor for the purpose of as-
35 certaining compliance with the provisions of the Kansas lottery act or rules
36 and regulations adopted thereunder.

37 (c) Issue subpoenas to compel access to or for the production of any
38 books, papers, records or memoranda in the custody or control of any
39 lottery gaming machine contractor, or to compel the appearance of any
40 lottery gaming machine contractor for the purpose of ascertaining com-
41 pliance with the provisions of this act or rules and regulations adopted
42 hereunder. Subpoenas issued under the provisions of this subsection may
43 be served upon natural persons and corporations in the manner provided

1 in K.S.A. 60-304, and amendments thereto, for the service of process by
2 any officer authorized to serve subpoenas in civil actions or by the execu-
3 tive director or an agent or representative designated by the executive
4 director. In the case of the refusal of any person to comply with any such
5 subpoena, the executive director may make application to the district
6 court of any county where such books, papers, records, memoranda or
7 person is located for an order to comply.

8 (d) Inspect and view the operation of all machines, systems or facil-
9 ities where electronic gaming machines controlled and operated by the
10 Kansas lottery are located.

11 (e) Inspect and approve, prior to publication or distribution, all ad-
12 vertising by a lottery gaming machine contractor which includes any ref-
13 erence to the Kansas lottery.

14 New Sec. 5. (a) Expenditures from all funds created pursuant to this
15 section shall be made in accordance with appropriations acts upon war-
16 rants of the director of accounts and reports issued pursuant to vouchers
17 approved by the executive director.

18 (b) There is hereby established in the state treasury the electronic
19 gaming machine fund. A separate account for each lottery gaming ma-
20 chine contractor shall be maintained in the electronic gaming machine
21 fund for receipt of money from such contractor.

22 (c) There is hereby established in the state treasury the electronic
23 gaming machine operation and regulatory fund. Moneys in such fund shall
24 be used to pay for the expenses of the Kansas lottery attributable to the
25 operation and regulation of electronic gaming machines. Moneys in such
26 fund may be expended only pursuant to appropriation and moneys in
27 excess of those appropriated to the Kansas lottery may be transferred to
28 the state general fund and expended as provided by appropriation.

29 New Sec. 6. (a) The executive director shall collect all net machine
30 income from each lottery gaming machine contractor. The executive di-
31 rector shall remit the entire amount to the state treasurer in accordance
32 with K.S.A. 75-4215, and amendments thereto. Upon receipt of the re-
33 mittance, the state treasurer shall deposit the entire amount in the state
34 treasury and credit it to the respective account maintained for such con-
35 tractor in the electronic gaming machine fund established pursuant to
36 section 5, and amendments thereto.

37 (b) Not less than once each week, the state treasurer shall transfer
38 the following percentages of the balance in each account in the electronic
39 gaming machine fund for receipt of moneys from lottery gaming machine
40 contractors which are parimutuel licensees:

41 (1) To the respective lottery gaming machine contractor, 5%;

42 (2) to the problem gambling grant fund established pursuant to
43 K.S.A. 2002 Supp. 79-4805, and amendments thereto, 1%, except that

1 such transfer shall be to the credit of the state general fund at such time
2 as the balance in such fund is equal to the amount of \$4,000,000, but if
3 the balance in such fund falls below the amount of \$3,000,000, such trans-
4 fers shall resume;

5 (3) to the state general fund, 93%; and

6 (4) to the electronic gaming machine operation and regulatory fund
7 established pursuant to section 7, and amendments thereto, 1%.

8 (c) After distribution of moneys pursuant to subsection (b), the state
9 treasurer, not less than once each week, shall remit to the lottery gaming
10 machine contractor the balance in the account maintained for such
11 contractor.

12 New Sec. 7. (a) Except as when authorized in accordance with sub-
13 section (c), it is unlawful for any lottery gaming machine contractor or its
14 employees or agents to allow any person to play electronic gaming ma-
15 chines or share in winnings of a person knowing such person to be:

16 (1) Under 21 years of age;

17 (2) the executive director, a member of the commission or an em-
18 ployee of the Kansas lottery;

19 (3) an officer or employee of a vendor contracting with the Kansas
20 lottery to supply gaming equipment or tickets to the Kansas lottery for
21 use in the operation of any lottery conducted pursuant to this act;

22 (4) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
23 parent or stepparent of a person described by subsection (a)(2) or (a)(3);
24 or

25 (5) a person who resides in the same household as any person de-
26 scribed by subsection (a)(2) or (a)(3).

27 (b) Violation of subsection (a) is a class A nonperson misdemeanor
28 upon conviction for a first offense. Violation of subsection (a) is a severity
29 level 9, nonperson felony upon conviction for a second or subsequent
30 offense.

31 (c) The executive director may authorize in writing any employee of
32 the Kansas lottery and any employee of a lottery vendor to play an elec-
33 tronic gaming machine or a lottery game authorized pursuant to the Kan-
34 sas gaming act to verify the proper operation thereof with respect to
35 security and contract compliance. Any prize awarded as a result of such
36 ticket purchase shall become the property of the Kansas lottery and be
37 added to the prize pools of subsequent lottery games. No money or mer-
38 chandise shall be awarded to any employee playing an electronic gaming
39 machine or lottery game pursuant to this subsection.

40 New Sec. 8. Each lottery gaming machine contractor shall post one
41 or more signs at the location where the contractor operates electronic
42 gaming machines to inform patrons of the toll-free number available to
43 provide information and referral services regarding compulsive or prob-

1 lem gambling. The text shall be determined by the secretary of the de-
2 partment of social and rehabilitation services. Failure by a lottery gaming
3 machine contractor to post and maintain such signs shall be cause for the
4 imposition of a fine not to exceed \$500 per day.

5 New Sec. 9. Each lottery gaming machine contractor shall provide
6 access for the executive director or the executive director's designee to
7 all its records and the physical premises where the electronic gaming
8 machine activities occur for the purpose of monitoring or inspecting the
9 electronic gaming machines and gaming equipment. None of the infor-
10 mation disclosed pursuant to this subsection shall be subject to disclosure
11 under the Kansas open records act, K.S.A. 45-216 *et seq.*, and amend-
12 ments thereto.

13 New Sec. 10. (a) Wagers shall be received only from a person at the
14 location where the electronic gaming machine or other lottery game is
15 authorized pursuant to the Kansas gaming act. No person present at such
16 location shall place or attempt to place a wager on behalf of another
17 person who is not present at such location.

18 (b) Violation of this section is a class A nonperson misdemeanor upon
19 a conviction for a first offense. Violation of this section is a severity level
20 9, nonperson felony upon conviction for a second or subsequent offense.

21 New Sec. 11. A person under age 21 shall not be permitted in an
22 area of any location where any electronic gaming machine or other lottery
23 game authorized pursuant to the Kansas gaming act is being conducted,
24 except for a person at least 18 years of age who is an employee of the
25 lottery gaming machine contractor. No employee under age 21 shall per-
26 form any function involved in gaming by the patrons. No person under
27 age 21 shall be permitted to make a wager on an electronic gaming ma-
28 chine or in a lottery game authorized pursuant to the Kansas gaming act.

29 New Sec. 12. Pursuant to section 2 of the federal act entitled "An
30 Act to Prohibit Transportation of Gambling Devices in Interstate and
31 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
32 acting by and through the duly elected and qualified members of the
33 legislature, does hereby in this section, and in accordance with and in
34 compliance with the provisions of section 2 of such federal act, declare
35 and proclaim that it is exempt from the provision of section 2 of such
36 federal act to the extent that such gambling devices are being transported
37 to or from the Kansas lottery or to or from a lottery gaming machine
38 contractor at a location within the state of Kansas where electronic gaming
39 machines or other lottery games are authorized pursuant to the Kansas
40 gaming act.

41 New Sec. 13. Except for persons acting in accordance with rules and
42 regulations of the Kansas lottery in performing installation, maintenance
43 and repair services, any person who, with the intent to manipulate the

1 outcome, pay out or operation of an electronic gaming machine, manip-
2 ulates the outcome, pay out or operation of an electronic gaming machine
3 by physical, electrical or mechanical means shall be guilty of a severity
4 level 8, nonperson felony.

5 New Sec. 14. (a) The Kansas lottery and its designated employees
6 may observe and inspect all electronic gaming machines, gaming equip-
7 ment and facilities operated by a lottery gaming machine contractor.

8 (b) The executive director may examine, or cause to be examined by
9 any agent or representative designated by the executive director, any
10 books, papers, records or memoranda of any lottery gaming machine con-
11 tractor, or of any business involved in electronic gaming or lottery games
12 authorized pursuant to the Kansas gaming act, for the purpose of ascer-
13 taining compliance with any provision of the Kansas gaming act or any
14 rules and regulations adopted thereunder.

15 (c) The executive director shall have the power to investigate alleged
16 violations of the Kansas gaming act and alleged violations of any rules and
17 regulations, orders and final decisions of such commission.

18 (d) Appropriate security measures shall be required in any and all
19 areas where electronic gaming machines or other lottery games author-
20 ized pursuant to the Kansas gaming act are located or operated. The
21 executive director shall approve all such security measures.

22 (e) The executive director shall require an annual audit of the elec-
23 tronic gaming machine operations of each lottery gaming machine con-
24 tractor contracting with the Kansas lottery. Such audit shall be conducted
25 by a licensed accounting firm approved by the executive director. Such
26 audit shall be conducted at the expense of the lottery gaming machine
27 contractor to which such audit applies.

28 (f) The executive director shall have the power to take any other
29 action as may be reasonable or appropriate to enforce the provisions of
30 this act and any rules and regulations, orders and final decisions of the
31 executive director.

32 New Sec. 15. (a) It is a class A nonperson misdemeanor for a legis-
33 lator, state elected official, elected official or employee of a city or county
34 in which there is located a facility where electronic gaming machines or
35 other lottery games are operated pursuant to the Kansas gaming act, the
36 executive director, any member of the lottery commission or any em-
37 ployee of the Kansas lottery knowingly to:

38 (1) Participate in the operation of or have a financial interest in any
39 business which has been issued a concessionaire license, racing or wa-
40 gering or electronic gaming machine equipment or services license or any
41 business which sells goods or services to any lottery gaming machine
42 contractor;

43 (2) participate directly or indirectly as an owner, operator, manager

1 or consultant in electronic or other gaming in Kansas;

2 (3) while in Kansas place a wager on or bet or play an electronic
3 gaming machine or other lottery game authorized pursuant to the Kansas
4 gaming act;

5 (4) accept any compensation, gift, loan, entertainment, favor or serv-
6 ice from any lottery gaming machine contractor, except such suitable
7 facilities and services as may be required to facilitate the performance of
8 the executive director's, member's, employee's or appointee's official
9 duties;

10 (5) enter into any business dealing, venture or contract with a lottery
11 gaming machine contractor; or

12 (6) engage in any activity described in subsection (a)(1), (2), (4) or
13 (5) within two years from the last day of service as such legislator, em-
14 ployee of a city or county in which there is located a facility where elec-
15 tronic gaming machines or other lottery games are operated pursuant to
16 the Kansas gaming act, executive director, member, employee or
17 appointee.

18 (b) It is a severity level 8, nonperson felony for any person playing or
19 using any electronic gaming machine in Kansas knowingly to:

20 (1) Use other than a lawful coin or legal tender of the United States
21 of America, or to use coin not of the same denomination as the coin
22 intended to be used in an electronic gaming machine, except that in the
23 playing of any electronic gaming machine or similar gaming device, it
24 shall be lawful for any person to use gaming billets, tokens or similar
25 objects therein which are approved by the Kansas lottery;

26 (2) possess or use, while on the premises of a lottery gaming machine
27 contractor where electronic gaming machines or other lottery games are
28 authorized, any cheating or thieving device, including but not limited to,
29 tools, wires, drills, coins attached to strings or wires or electronic or mag-
30 netic devices to facilitate removing from any electronic gaming machine
31 any money or contents thereof, except that a duly authorized agent or
32 employee of the Kansas lottery or a lottery gaming machine contractor
33 may possess and use any of the foregoing only in furtherance of the agent's
34 or employee's employment at the location where electronic gaming ma-
35 chines or other lottery games are authorized; or

36 (3) possess or use while on the premises of any location where elec-
37 tronic gaming machines or other lottery games are authorized any key or
38 device designed for the purpose of or suitable for opening or entering
39 any electronic gaming machine or similar gaming device or drop box,
40 except that a duly authorized agent or employee of the Kansas lottery or
41 a lottery gaming machine contractor may possess and use any of the fore-
42 going only in furtherance of the agent's or employee's employment at the
43 location where electronic gaming machines or other lottery games are

1 authorized.

2 New Sec. 16. (a) No lottery gaming machine contractor shall permit
3 any business not owned and operated by such contractor to provide elec-
4 tronic gaming machine equipment or services, as designated by rules and
5 regulations of the Kansas lottery, to such contractor unless such business
6 has been issued an electronic gaming machine equipment or services
7 license by the Kansas lottery. Such equipment and services shall include,
8 but are not limited to, surveillance, electronic computer components,
9 random number generator or cabinet thereof and token redemption
10 equipment or services.

11 (b) Businesses required to be licensed pursuant to this section shall
12 apply for licenses in a manner and upon forms prescribed and furnished
13 by the executive director. The executive director shall require disclosure
14 of information about the owners and officers of each applicant and may
15 require such owners and officers to submit to fingerprinting. The exec-
16 utive director also may require disclosure of information about and fin-
17 gerprinting of such employees of each applicant as the executive director
18 considers necessary. Licenses issued pursuant to this section shall be is-
19 sued for a period of time established by the executive director but not to
20 exceed 10 years. The executive director may charge application fees and
21 license fees for such licenses based upon the type and size of business.
22 The application fee shall not be refundable if the business fails to qualify
23 for a license. If the application fee is insufficient to pay the reasonable
24 expenses of processing the application and investigating the applicant's
25 qualifications for licensure, the executive director shall require the ap-
26 plicant to pay to the Kansas lottery, at such times and in such form as
27 required by the executive director, any additional amounts necessary to
28 pay such expenses. No license shall be issued to an applicant until the
29 applicant has paid such additional amounts in full, and such amounts shall
30 not be refundable except to the extent that they exceed the actual ex-
31 penses of processing the application and investigating the applicant's qual-
32 ifications for licensure.

33 (c) The executive director shall require applicants as a condition of
34 licensure to consent to allow agents of the Kansas bureau of investigation
35 or security personnel of the Kansas lottery to search without warrant the
36 licensee's premises and personal property and the persons of its owners,
37 officers and employees while engaged in the licensee's business within
38 the premises of the facility or adjacent facilities under the control of the
39 electronic gaming machine contractor, for the purpose of investigating
40 criminal violations of this act or violations of rules and regulations of the
41 Kansas lottery.

42 (d) The executive director may refuse to issue a license pursuant to
43 this section if any person having an interest ownership in the business or

1 any officer or employee of the business:

2 (1) Has been convicted of a felony in a court of any state or of the
3 United States; has been adjudicated in the last 10 years, in any such court
4 of committing as a juvenile an act which, if committed by an adult, would
5 constitute a felony or has been convicted of a crime in any other state or
6 country which would constitute a felony, if committed under the same
7 circumstances pursuant to Kansas law;

8 (2) has been convicted of a violation of any law of any state or of the
9 United States involving gambling or controlled substances or has been
10 adjudicated in the last 10 years in any such court of committing as a
11 juvenile an act which, if committed by an adult, would constitute such a
12 violation;

13 (3) fails to disclose any material fact or provides information, knowing
14 such information to be false, in connection with the application for the
15 license;

16 (4) has been found to have violated any provision of this act or any
17 rule and regulation adopted pursuant thereto; or

18 (5) has failed to meet any monetary or tax obligation to the federal
19 government or to any state or local government.

20 (e) The executive director may suspend or revoke a license issued
21 pursuant to this section for any reason which would justify refusal to issue
22 such a license.

23 (f) The commission may provide by rules and regulations for the tem-
24 porary suspension of a license issued pursuant to this section. Such sus-
25 pension shall be for a period not exceeding 30 days. Upon expiration of
26 such suspension, the license shall be restored unless the license has been
27 suspended or revoked as a result of proceedings conducted pursuant to
28 subsection (e).

29 New Sec. 17. No taxes, fees, charges, transfers or distributions, other
30 than those provided for in this act, shall be made or levied by any city,
31 county or other municipality from or against net machine income or net
32 income from lottery games operated pursuant to this act.

33 New Sec. 18. All sales of electronic gaming machine games and other
34 lottery games authorized by the Kansas gaming act shall be exempt from
35 sales taxes imposed pursuant to K.S.A. 12-187 *et seq.*, and 79-3601 *et seq.*,
36 and amendments thereto.

37 New Sec. 19. Each lottery gaming machine contractor shall hold the
38 executive director of the Kansas lottery and the state harmless from and
39 defend and pay for the defense of any and all claims which may be as-
40 serted against the executive director, the commission and the state, or
41 the agents or employees thereof, arising from the operation of electronic
42 gaming machines or other games pursuant to the Kansas gaming act. The
43 provisions of this section shall not apply to any claims arising from the

1 negligence or willful misconduct of the executive director, the commis-
2 sion and the state, or the agents or employees thereof.

3 New Sec. 20. As a condition precedent to contracting for the privi-
4 lege of being a lottery gaming machine contractor, the contractor shall
5 file with the secretary of state of this state written consent, irrevocable,
6 that any action or garnishment proceeding may be commenced against
7 such contractor in the proper court of any county in this state in which
8 the case of action shall arise or in which the plaintiff may reside by the
9 service of process on a resident agent, and stipulating and agreeing that
10 such service shall be taken and held in all courts to be as valid and binding
11 as if due service had been made upon the contractor. The written consent
12 shall state that the courts of this state have jurisdiction over the person
13 of such contractor and are the proper and convenient forum for such
14 action and shall waive the right to request a change of jurisdiction or
15 venue to a court outside this state and that all actions arising under this
16 act and commenced by the contractor shall be brought in this state's court
17 as the proper and convenient forum. Such consent shall be executed by
18 the contractor and if a corporation, by the president and secretary of the
19 corporate contractor, and shall be accompanied by a duly certified copy
20 of the order or resolution of the board of directors, trustees or managers
21 authorizing the president and secretary to execute the same.

22 Sec. 21. K.S.A. 74-8710 is hereby amended to read as follows: 74-
23 8710. (a) The commission, upon the recommendation of the executive
24 director, shall adopt rules and regulations governing the establishment
25 and operation of a state lottery as necessary to carry out the purposes of
26 this act. Temporary rules and regulations may be adopted by the com-
27 mission without being subject to the provisions and requirements of
28 K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
29 subject to approval by the attorney general as to legality and shall be filed
30 with the secretary of state and published in the Kansas register. Tem-
31 porary and permanent rules and regulations may include but shall not be
32 limited to:

33 (1) Subject to the provisions of subsection (c), the types of lottery
34 games to be conducted, including but not limited to instant lottery, on-
35 line and traditional games, but not including games on video lottery ma-
36 chines or lottery machines.

37 (2) The manner of selecting the winning tickets or shares, except that,
38 if a lottery game utilizes a drawing of winning numbers, a drawing among
39 entries or a drawing among finalists, such drawings shall always be open
40 to the public and shall be recorded on both video and audio tape.

41 (3) The manner of payment of prizes to the holders of winning tickets
42 or shares.

43 (4) The frequency of the drawings or selections of winning tickets or

1 shares.

2 (5) The type or types of locations at which tickets or shares may be
3 sold.

4 (6) The method or methods to be used in selling tickets or shares.

5 (7) Additional qualifications for the selection of lottery retailers and
6 the amount of application fees to be paid by each.

7 (8) The amount and method of compensation to be paid to lottery
8 retailers, including special bonuses and incentives.

9 (9) Deadlines for claims for prizes by winners of each lottery game.

10 (10) Provisions for confidentiality of information submitted by ven-
11 dors pursuant to K.S.A. 74-8705, and amendments thereto.

12 (11) Information required to be submitted by vendors, in addition to
13 that required by K.S.A. 74-8705, and amendments thereto.

14 (12) The major procurement contracts or portions thereof to be
15 awarded to minority business enterprises pursuant to subsection (a) of
16 K.S.A. 74-8705, and amendments thereto, and procedures for the award
17 thereof.

18 (13) *Rules and regulations to implement, administer and enforce the*
19 *provisions of the Kansas gaming act.*

20 (14) *The types of electronic gaming machines to be operated and lot-*
21 *tery games operated pursuant to the Kansas gaming act.*

22 (b) No new lottery game shall commence operation after the effective
23 date of this act unless first approved by the governor or, in the governor's
24 absence or disability, the lieutenant governor. *This subsection shall not*
25 *be construed to require approval of games played on an electronic gaming*
26 *machine.*

27 (c) The lottery shall adopt rules and regulations concerning the game
28 of keno. Such rules and regulations shall require that the amount of time
29 which elapses between the start of games shall not be less than four
30 minutes.

31 Sec. 22. K.S.A. 74-8711 is hereby amended to read as follows: 74-
32 8711. (a) There is hereby established in the state treasury the lottery
33 operating fund.

34 (b) *Except as otherwise provided by the Kansas gaming act*, the ex-
35 ecutive director shall remit all moneys collected from the sale of lottery
36 tickets and shares and any other moneys received by or on behalf of the
37 Kansas lottery to the state treasurer in accordance with the provisions of
38 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
39 remittance, the state treasurer shall deposit the entire amount in the state
40 treasury to the credit of the lottery operating fund. Moneys credited to
41 the fund shall be expended or transferred only as provided by this act.
42 Expenditures from such fund shall be made in accordance with appro-
43 priations acts upon warrants of the director of accounts and reports issued

1 pursuant to vouchers approved by the executive director or by a person
2 designated by the executive director.

3 (c) Moneys in the lottery operating fund shall be used for:

4 (1) The payment of expenses of the lottery, which shall include all
5 costs incurred in the operation and administration of the Kansas lottery,
6 *other than expenses incurred pursuant to the Kansas gaming act*; all costs
7 resulting from contracts entered into for the purchase or lease of goods
8 and services needed for operation of the lottery, including but not limited
9 to supplies, materials, tickets, independent studies and surveys, data
10 transmission, advertising, printing, promotion, incentives, public rela-
11 tions, communications and distribution of tickets and shares; and reim-
12 bursement of costs of facilities and services provided by other state
13 agencies;

14 (2) the payment of compensation to lottery retailers;

15 (3) transfers of moneys to the lottery prize payment fund pursuant to
16 K.S.A. 74-8712, and amendments thereto;

17 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,
18 and amendments thereto;

19 (5) transfers to the state gaming revenues fund pursuant to subsection
20 (d) of this section and as otherwise provided by law; and

21 (6) transfers to the county reappraisal fund as prescribed by law.

22 (d) The director of accounts and reports shall transfer moneys in the
23 lottery operating fund to the state gaming revenues fund created by
24 K.S.A. 79-4801, and amendments thereto, on or before the 15th day of
25 each month in an amount certified monthly by the executive director and
26 determined as follows, whichever is greater:

27 (1) An amount equal to the moneys in the lottery operating fund in
28 excess of those needed for the purposes described in subsections (c)(1)
29 through (c)(4); or

30 (2) except for pull-tab lottery tickets and shares, an amount equal to
31 not less than 30% of total monthly revenues from the sales of lottery
32 tickets and shares less estimated returned tickets. In the case of pull-tab
33 lottery tickets and shares, an amount equal to not less than 20% of the
34 total monthly revenues from the sales of pull-tab lottery tickets and shares
35 less estimated returned tickets.

36 Sec. 23. K.S.A. 2002 Supp. 79-4805 is hereby amended to read as
37 follows: 79-4805. (a) There is hereby established in the state treasury the
38 problem gambling grant fund. All moneys credited to such fund shall be
39 used only for the awarding of grants under this section. Such fund shall
40 be administered in accordance with this section and the provisions of
41 appropriation acts.

42 (b) All expenditures from the problem gambling grant fund shall be
43 made in accordance with appropriation acts upon warrants of the director

1 of accounts and reports issued pursuant to vouchers approved in the man-
2 ner prescribed by law.

3 (c) There is hereby established a state grant program to provide as-
4 sistance for the direct treatment of persons diagnosed as suffering from
5 pathological gambling, *the continued training of addiction professionals,*
6 *the marketing of programs funded pursuant to this section,* and to provide
7 funding for research regarding the impact of gambling on residents of
8 Kansas. Research grants awarded under this section may include, but
9 need not be limited to, grants for determining the effectiveness of edu-
10 cation, *treatment* and prevention efforts on the prevalence of pathological
11 gambling in Kansas. All grants shall be made after open solicitation of
12 proposals and evaluation of proposals against criteria established in rules
13 and regulations adopted by the secretary of the department of social and
14 rehabilitation services. Both public and private entities shall be eligible
15 to apply for and receive grants under the provisions of this section.

16 (d) The secretary of the department of social and rehabilitation serv-
17 ices is hereby authorized to receive moneys from any grants, gifts, con-
18 tributions or bequests made for the purpose of funding grants under this
19 section and to expend such moneys for the purpose for which received.

20 (e) All grants made in accordance with this section shall be made from
21 the problem gambling grant fund. The secretary shall administer the pro-
22 visions of this section and shall adopt rules and regulations establishing
23 criteria for qualification to receive grants and such other matters deemed
24 necessary by the secretary for the administration of this section. Such
25 rules and regulations shall include, but need not be limited to, a require-
26 ment that each recipient of a grant to provide treatment for pathological
27 gamblers report at least annually to the secretary the grantee's measurable
28 achievement of specific outcome goals.

29 (f) For the purpose of this section "pathological gambling" means the
30 disorder by that name described in the most recent edition of the diag-
31 nostic and statistical manual.

32 Sec. 24. K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp.
33 79-4805 are hereby repealed.

34 Sec. 25. This act shall take effect and be in force from and after its
35 publication in the Kansas register.

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