

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by CHAIRMAN MILLER at _____
Chairperson

1:30 a.m./p.m. on February 16, 1987 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Lynda Hutfles, Secretary
Raney Gilliland, Research
Mary Galligan, Research
Mary Torrance, Revisor's Office

Conferees appearing before the committee:

The meeting was called to order by Chairman Miller.

Representative Eckert made a motion, seconded by Representative Jenkins, to approve the minutes of the February 12 meeting. The motion carried.

HB2044 - Pari-Mutuel

Representative Roy presented the sub-committee report on non-profit organizations and the current legal requirements for non-profit corporations in Kansas. See attachment A. See attachment B for proposed amendments that came about as a result of the sub-committee meetings.

Representative Roy made a motion, seconded by Representative Rolfs, to adopt the sub-committee report and the suggested amendments.

Representative Walker made a substitute motion, seconded by Representative Rolfs, to amend the sub-committee amendments on line 389 to read that commission members can never have a financial interest in a racetrack facility. The motion failed.

Representative Roy's original motion was voted upon and the motion carried.

Representative Barr presented the sub-committee report on medication and proposed amendments suggested by the members. See attachments C & D.

Representative Barr made a motion, seconded by Representative Sebelius, to adopt the committee report and the suggested amendments.

Representative Charlton made a motion to delete the sub-committee proposal on medication. The motion failed.

Representative Rolfs made a substitute motion, seconded by Rep. Aylward, to amend the sub-committee amendments by reducing the penalties in New Sec. 10 (e) to a Class E felony and to include in the subcommittee report. The motion carried.

Representative Barr's original motion was voted on. The motion carried.

Representative Barr made a motion, seconded by Representative Roenbaugh, to add on line 489, "or, (13) use any animal or fowl in the training of racing greyhounds. The motion carried. See attachment E & F.

Representative Sprague made a motion, seconded by Representative Rolfs, to change the length of the term of license from "up to 25 years" to "up to 1 year". The motion lost. Attachment G shows license terms in most states with pari-mutuel have an annual license.

Representative Barr made a motion, seconded by Representative Sprague, to amend the term of license from "up to 25 years" to "up to 10 years". The motion carried. Division 12-11.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs,
room 526S, Statehouse, at 1:30 a.m./p.m. on February 16, 1987.

Representative Peterson made a motion, seconded by Representative Aylward, to amend HB2044 by setting conditions whereby taxes on greyhound racing can be reduced. The motion carried unanomously. See attachment H.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 2/16

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Alvie Price	Topoka	KBA
DICK TAYLOR	TOPEKA	LIFE AT BEST
Doc Kwanke	Topeka	Topeka Cont.
Jan Burgess	Topoka	Sunflower Racing
Gail Hamilton	Lawrence	KS N.O.U.
Ashli H. Greenwood	Topoka	Rep. House (Intern)
Mube Reecht	Topoka	AT&T
Janis Boatright	Mayfield	KLBOED
Jan VanWinkle	WINDYBIRD	KIGO
NORMAN HANSON	Solomon	KIGO
RICHARD NELSON	ABILENE	KIGO
Larry Erne	Topoka	KIGO
Helen Stout	Burlingame	Greyhound Farmer
Ben Stout	B. game	" "
BOB ALDERSON	TOPEKA	KANS. RACING CHARITIES, INC.
Jonathan Small	Topoka	Greenwood Co. Fair/Assn Kansans for Parimutuel

orig.

SUBCOMMITTEE REPORT

February 16, 1987

TO: House Committee on Federal and State Affairs

FROM: Subcommittee on Nonprofit Organizations

RE: Recommended Amendments to H.B. 2044

The Subcommittee composed of Chairman Bill Roy and Representatives Rolfs, Sprague, and Gjerstad held two meetings at which all members were present. At the first meeting Mr. John Wine from the Secretary of State's Office summarized the current legal requirements for nonprofit corporations in Kansas.

The Subcommittee identified four issues in regard to nonprofit organizations to be addressed. The issues are as follows:

1. The true philanthropic purpose of a bona fide nonprofit organization.
2. The establishment and maintenance of an arm's length relationship between the organization licensee and the owner or manager licensee or both.
3. Additional reporting requirements to enable the Racing Commission to determine and police maintenance of Nos. 1 and 2 above.
4. The limitation of legal or contractual liability of the nonprofit corporation.

While the Subcommittee makes specific recommendations in regard to each of the issues, it strongly urges the Racing Commission to develop stringent rules and regulations that implement the spirit as well as the letter of those recommendations. The recommendations for each of the issues are listed below. These recommendations would apply to all nonprofit organizations (organization licensees) except county fair associations and local governments.

- I. True philanthropic purpose of the nonprofit organization.
 - Organization licensees must use all of their earnings that are not expended for the racing and parimutuel operations for charitable purposes.
 - No more than 25 percent of a licensee's charitable contributions can be given to a single charity.

Attachment A

- All charities that receive funds from a licensee must be tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986.
- The licensee cannot conduct its own charitable activities, but rather must act as a grantor to charities.

II. Maintenance of an arm's length relationship with facility manager licensees, facility owner licensees and other for profit organizations.

- Include the following list of prohibited transactions from in the Internal Revenue Code of 1986 in the bill. The prohibitions would prevent organization licensees from:

1. lending any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;
2. paying any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;
3. making any part of its services available on a preferential basis to;
4. making any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;
5. selling any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or
6. engaging in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, or 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

- Throughout the bill include uncles and aunts among family members.

- All officers, members and directors of the organization licensee must be Kansas residents.
- No officer, member or director of an organization licensee may have any beneficial interest in a track.
- Officers, members and directors of organization licensees should be prohibited from obtaining any beneficial interest in a track for five years after ending their relationship with the licensee. The Subcommittee also recommends that the bill be amended to extend the same prohibition to former members of the Racing Commission.
- Directors, members, and officers of the organization licensee could be compensated at the rate set for state boards and commissions (\$35 per day plus mileage) as a maximum.
- Directors and officers of the organization licensee should be prohibited from performing professional services either for the organization licensee, any other licensee of the commission or any organization with which the organization licensee has a contractual relationship.
- Directors, members and officers of the organization licensee should be prohibited from having any beneficial interest in or being officers or directors of any for profit corporation with which the licensee has a business relationship.

III. Additional reporting requirements.

- An annual audit of the organization licensee conducted by an independent certified public accountant should be required. The audit should be filed with the Commission. The audit should be open to public inspection.
- The financial records of the organization licensee should be required to be kept in accordance with generally accepted accounting principles.
- The organization licensees should be required to notify the commission prior to any changes of directors or contractual relationships.

IV. Limiting liability of organization licensees.

- Directors of the organization licensees should be protected from personal liability. The nonprofit corporation would continue to have liability.
- Limitation should be placed on the contractual liability of the organization licensee. Financial losses should fall to for profit corporations and track managers. The Commission should


review carefully all contracts to assure that these harmless provisions are included.

The amendments to the bill that would implement these recommendations are attached.


Submitted February 16, 1987




Representative Bill Roy, Jr., Chairman



Representative Ed Rolfs



Representative Dale Sprague



Representative Diane Gjerstad

F87-52.2/MG

B

Attachment B

0046 ernment licensed by the commission to construct or own a
0047 racetrack facility but does not mean an organization licensee
0048 which owns the racetrack facility in which it conducts horse or
0049 greyhound racing.

0050 (g) "Financial interest" means an interest that could result
0051 directly or indirectly in receiving a pecuniary gain or sustaining
0052 a pecuniary loss as a result of ownership or interest in a business
0053 entity or activity or as a result of a salary, gratuity or other
0054 compensation or remuneration from any person.

0055 (h) "Greyhound" means any greyhound breed of dog prop-
0056 erly registered with the national greyhound association of Abi-
0057 lene, Kansas.

0058 (i) "Kansas-bred horse" means any horse dropped by a mare
0059 in Kansas and domiciled in Kansas for the first six months of its
0060 life.

0061 (j) "Kansas-whelped greyhound" means a greyhound
0062 whelped and raised in Kansas for the first six months of its life.

0063 (k) "Minus pool" means a parimutuel pool in which, after
0064 deducting the takeout, not enough money remains in the pool to
0065 pay the legally prescribed minimum return to those placing
0066 winning wagers, and in which the organization licensee would
0067 be required to pay the remaining amount due.

0068 (l) "~~Nonprofit corporation~~" means a corporation which is organization" means: (1)
0069 incorporated in Kansas as a not-for-profit corporation pursuant to
0070 the Kansas general corporation code and the net earnings of
0071 which do not inure to the benefit of any shareholder, individual
0072 member or person. ~~Nonprofit corporation includes~~ a county fair ; or (2)
0073 association organized pursuant to K.S.A. 2-125 *et seq.*, and
0074 amendments thereto.

0075 (m) "Occupation licensee" means a person licensed by the
0076 commission to perform an occupation or provide services which
0077 the commission has identified as requiring a license pursuant to
0078 this act.

0079 (n) "Organization licensee" means a nonprofit ~~corporation~~ organization
0080 licensed by the commission to conduct races pursuant to this act.

0081 (o) "Parimutuel pool" means the total money wagered by
0082 individuals on one or more horses or greyhounds in a particular

0379 approval of the commission, an assistant attorney general who
0380 shall be assigned to assist the commission in the enforcement of
0381 the criminal provisions of this act. Such attorney shall be in the
0382 unclassified service under the Kansas civil service act and shall
0383 receive an annual salary fixed by the attorney general, with the
0384 approval of the commission, subject to the limitations of appro-
0385 priations therefor.

0386 New §ec. 10. (a) It is a class A misdemeanor for any member
0387 of the commission to have a financial interest, directly or indi-
0388 rectly, in any racetrack facility within the state of Kansas during
0389 the member's term of office with the commission or during the
0390 two years immediately following such member's term of office
0391 with the commission.

or any officer, director or member of an organization licensee

five

0392 (b) It is a class A misdemeanor for any member, employee or
0393 appointee of the commission, including stewards and racing
0394 judges, to knowingly:

0395 (1) Participate in the operation of or have a financial interest
0396 in any business which has been issued a concessionaire license,
0397 facility owner license or facility manager license, or any business
0398 which sells goods or services to an organization licensee;

0399 (2) participate directly or indirectly as an owner, owner-
0400 trainer or trainer of a horse or greyhound, or as a jockey of a
0401 horse, entered in a race meeting conducted in this state;

0402 (3) place a wager on an entry in a horse or greyhound race
0403 conducted by an organization licensee; or

0404 (4) accept any compensation, gift, loan, entertainment, favor
0405 or service from any licensee, except such suitable facilities and
0406 services within a racetrack facility operated by an organization
0407 licensee as may be required to facilitate the performance of the
0408 member's, employee's or appointee's official duties.

0409 (c) It is a class A misdemeanor for any member, employee or
0410 appointee of the commission, or any spouse, parent, grandparent,
0411 brother, sister, child, grandchild, parent-in-law, brother-in-law
0412 or sister-in-law thereof, to: include "aunts & uncles"

0413 (1) Hold any license issued by the commission; or

0414 (2) enter into any business dealing, venture or contract with
0415 an owner or lessee of a racetrack facility in Kansas.

(d) It is a class A misdemeanor for any officer, director
or member of an organization licensee to:

(1) Receive, for duties performed as an officer or director
of such licensee, any compensation or reimbursement or payment of
expenses in excess of the amounts provided by K.S.A. 75-3223 and
amendments thereto for board members' compensation, mileage and
expenses;

(2) enter into any business dealing, venture or contract
with the organization licensee or, other than in the capacity of
an officer or director of the organization licensee, with a
facility owner licensee, facility manager licensee or
concessionaire licensee.

0527 (b) To qualify for an organization license to conduct horse or
0528 greyhound races:

0529 (1) The applicant shall be a bona fide, nonprofit ~~corporation~~
0530 ~~incorporated under the laws of the state of Kansas;~~

0531 (2) the applicant shall have, either by itself or through con-
0532 tractual relationships with other persons or businesses approved
0533 by the commission, the financial capability, manpower and
0534 technical expertise, as determined by the commission, to prop-
0535 erly conduct horse races or greyhound races, or both, and, if
0536 applicable, to operate a parimutuel wagering system;

0537 (3) if the applicant is proposing to construct a racetrack facil-
0538 ity, the applicant shall submit detailed plans for the construction
0539 of such facility, including the means and source of financing such
0540 construction and operation, sufficient to convince the commis-
0541 sion that such plans are feasible;

0542 (4) submit for commission approval a written copy of each
0543 contract and agreement which the applicant proposes to enter
0544 into, including all those listed in subsection (l), which contracts
0545 and agreements shall conform to the restrictions placed thereon
0546 by subsections (l), (m) and (n);

0547 (5) the applicant shall propose to conduct races within only
0548 one county, and in such county the majority of the qualified
0549 electors have approved either: (A) The constitutional amend-
0550 ment permitting the conduct of horse and dog races and parimu-
0551 tuel wagering thereon; or (B) a proposition permitting horse and
0552 dog races and parimutuel wagering thereon within the bounda-
0553 ries of such county;

0554 (6) no stockholder, director, officer, employee or agent of the
0555 applicant shall have been convicted of or have criminal charges
0556 pending for any of the following in any court of any state or of the
0557 United States: (A) Fixing of horse or greyhound races; (B) illegal
0558 gambling activity; (C) illegal sale or possession of any controlled
0559 substance; (D) operation of any illegal business; (E) repeated
0560 acts of violence; or (F) any felony;

0561 (7) no stockholder, director or officer of the applicant shall be
0562 addicted to alcohol or a controlled substance; and

0563 (8) all employees of the applicant shall be citizens of the

organization which, if not a county fair association, meets the requirements of subsection (c)

0564 United States and not less than 90% of such employees shall
 0565 have been residents of this state for not less than 18 months
 0566 immediately preceding employment by the applicant.

0567 (c) Within 30 days after the date specified for filing, the
 0568 commission shall examine each application for an organization
 0569 license for compliance with the provisions of this act and rules
 0570 and regulations of the commission. If any application does not
 0571 comply with the provisions of this act or rules and regulations of
 0572 the commission, the application may be rejected or the commis-
 0573 sion may direct the applicant to comply with the provisions of
 0574 this act or rules and regulations of the commission within a
 0575 reasonable time, as determined by the commission. Upon proof
 0576 by the applicant of compliance, the commission may reconsider
 0577 the application. If an application is found to be in compliance
 0578 and the commission finds that the issuance of the license would
 0579 be within the best interests of horse and greyhound racing
 0580 within this state from the standpoint of both the public interest
 0581 and the horse or greyhound industry, as determined solely
 0582 within the discretion of the commission, the commission may
 0583 issue an organization license to the applicant. The commission
 0584 shall approve the issuance of organization licenses for a period
 0585 established by the commission but not to exceed 25 years. For
 0586 each license issued, the commission shall specify the location,
 0587 type, time and date of all races and race meetings which the
 0588 commission has approved for the licensee to conduct. The li-
 0589 cense shall be issued upon receipt of the license fee and the
 0590 furnishing of a bond executed by a surety company authorized to
 0591 do business in this state. The bond shall be made payable to the
 0592 state of Kansas in an amount determined by the commission, but
 0593 not to exceed the total financial liability of the organization
 0594 licensee for the race meetings approved, and shall be condi-
 0595 tioned upon payment by the organization licensee of all taxes,
 0596 purses and distribution of parimutuel winnings and breakage.
 0597 No organization license shall be transferred to any other organi-
 0598 zation or entity.

0599 (d) When considering the granting of organization licenses or
 0600 racing days between two competing applicants, the commission

(c) To qualify for an organization license to conduct horse
 or greyhound races, a nonprofit organization which is not a
 county fair association shall:

(1) Distribute all of its net earnings from the conduct of
 horse and greyhound races to organizations, other than itself,
 which have been exempted from the payment of federal income taxes
 pursuant to section 501(c)(3) of the federal internal revenue
 code of 1986 and which are domiciled in this state;

(2) distribute not more than 25% of such net earnings to
 any one such organization in any calendar year;

(3) not engage in any prohibited transaction, as defined by
 section 503(b) of the federal internal revenue code of 1986; ~~or~~ and

(4) have no officer or director who is not a bona fide
 resident of this state.

[reletter remaining subsections and change
 cross-references]

0638 approved and included in the calculation of the initial license
0639 fee.

0640 (g) All organization licenses shall be reviewed annually by
0641 the commission to determine if the licensee is complying with
0642 the provisions of this act and rules and regulations of the com-
0643 mission and following such proposed plans and operating pro-
0644 cedures as were approved by the commission. The commission
0645 may review an organization license more often than annually
0646 upon its own initiative ~~or upon the request of any interested~~
0647 party. The commission ~~may require an organization licensee to~~
0648 provide any ~~update~~ information necessary for the commission
0649 to conduct the annual or periodic review.

shall require each organization licensee to file annually with the commission
a certified financial audit of the licensee by an independent certified public
accountant, which audit shall be open to inspection by the public, and
other

0650 (h) Subject to the provisions of subsection (i), the commis-
0651 sion, in accordance with the Kansas administrative procedure
0652 act, may suspend or revoke an organization license or may
0653 impose a fine not exceeding \$5,000, or may both suspend such
0654 license and impose such fine, for each of the following violations
0655 by a licensee:

0656 (1) One or more serious violations, or a pattern of repeated
0657 minor violations, of the provisions of this act or rules and regu-
0658 lations of the commission;

0659 (2) failure to follow one or more substantial provisions of the
0660 licensee's plans for the construction or operation of a racetrack
0661 facility as submitted to and approved by the commission;

0662 (3) ~~failure to maintain compliance with the requirements of~~
0663 ~~subsection (b) for the initial issuance of an organization license;~~

0664 (4) failure to properly maintain or to make available to the
0665 commission such financial and other records sufficient to permit
0666 the commission to verify the licensee's nonprofit status and
0667 compliance with the provisions of this act or rules and regula-
0668 tions of the commission;

0669 (5) providing to the commission any information material to
0670 the issuance, maintenance or renewal of the licensee's license
0671 knowing such information to be false or misleading; or

0672 (6) failure to meet the licensee's financial obligations in-
0673 curred in connection with the conduct of a race meeting.

0674 (i) Prior to suspension or revocation of a license pursuant to

or (c)

0675 subsection (h), the commission shall give written notice of the
0676 reason therefor in detail to the organization licensee and to all
0677 facility owner and facility manager licensees with whom the
0678 organization licensee is doing business. Upon receipt of such
0679 notice by all of such licensees, the organization licensee shall
0680 have 30 days in which to cure the alleged violation, if it can be
0681 cured. If the commission finds that the violation has not been
0682 cured upon expiration of the 30 days, or upon a later deadline
0683 granted by the commission, or if the commission finds that the
0684 alleged violation is of such a nature that it cannot be cured, the
0685 commission shall proceed to suspend or revoke the license
0686 pursuant to subsection (h). Nothing in this subsection shall be
0687 construed to preclude the commission from imposing a fine
0688 pursuant to subsection (h) even if the violation is cured with 30
0689 days or such other period as provided by the commission.

0690 (j) Prior to the expiration of an organization license, the
0691 organization may apply to the commission for renewal of such
0692 license. The renewal application shall be in a form and include
0693 such information as the commission prescribes. The commission
0694 shall grant such renewal if the organization meets all of the
0695 qualifications required for an original license. The commission
0696 may charge a fee for the processing of the renewal application
0697 not to exceed the application fee authorized for an initial license.

0698 (k) Once an organization license has been issued, no person
0699 thereafter and during the term of such license shall in any
0700 manner become the owner or holder, directly or indirectly, of
0701 any shares of stock or certificates or other evidence of ownership
0702 or become a director or officer of such organization licensee
0703 without first having obtained the written approval of the com-
0704 mission.

0705 (l) An organization licensee shall submit to the commission
0706 for approval a copy of each contract and agreement which the
0707 organization licensee proposes to enter into, ~~including but not~~
0708 limited to those involving:

- 0709 (1) Any person to be employed by the organization licensee;
- 0710 (2) any person supplying goods and services to the organiza-
0711 tion licensee, including management, consulting or other pro-

and any proposed modification of any such contract or agreement

0712 fessional services;

0713 (3) any lease of facilities, including real estate or equipment
0714 or other personal property; or

0715 (4) the operation of any concession within or adjacent to the
0716 racetrack facility.

0717 The commission shall reject any such contract or agreement
0718 which violates any provision of this act or rules and regulations
0719 of the commission ~~or which provides for payment of money or~~
0720 other valuable consideration which is clearly in excess of the fair
0721 market value of the goods, services or facilities being purchased
2 or leased.



0723 (m) Organization licensees shall not by lease, contract,
0724 agreement, understanding or arrangement of any kind grant,
0725 assign or turn over to any person the parimutuel system of
0726 wagering described in section 15 or the operation and conduct of
0727 any horse or greyhound race to which such wagering applies, but
0728 this subsection shall not prohibit the organization licensee from
0729 contracting with and compensating others for providing services
0730 in connection with the financing, acquisition, construction,
0731 equipping, maintenance and management of the racetrack facil-
0732 ity; the hiring and training of personnel; and the promotion of
0733 the facility.

0734 (n) An organization licensee shall not in any manner permit a
0735 person other than such licensee to have a share, percentage or
6 proportion of money received from parimutuel wagering at the
0737 racetrack facility except as specifically set forth in this act, except
0738 that:

0739 (1) An owner licensee may receive gross percentage rental
0740 fees under a lease if all terms of the lease are disclosed to the
0741 commission and such lease is approved by the commission; and

0742 (2) a person who has contracted an organization licensee to
0743 provide one or more of the services permitted by subsection (m)
0744 may receive compensation in the form of a percentage of the
0745 money received from parimutuel wagering if such contract is
0746 approved by the commission and such person is licensed as a
0747 facility manager.

0748 New Sec. 14. The commission shall establish by rules and

or which would not protect the organizational licensee from incurring losses due to contractual liability

(o) Directors or officers of an organizational licensee are not liable in a civil action for damages arising from their acts or omissions as individual directors or officers or as a board as a whole unless such conduct constitutes willful or wanton misconduct or intentionally tortious conduct, but only to the extent the directors and officers are not required to be insured by law or are not otherwise insured against such acts or omissions. Nothing in this section shall be construed to affect the liability of an organizational licensee for damages in a civil action caused by the negligent or wrongful acts or omissions of its directors or officers, and a director's or officer's negligence or wrongful act or omission, while acting as a director or officer, shall be imputed to the organizational licensee for the purpose of apportioning liability for damages to a third party pursuant to K.S.A. 60-258a and amendments thereto.

C

SUBCOMMITTEE REPORT

February 16, 1987

TO: House Committee on Federal and State Affairs
FROM: Subcommittee on Medication
RE: Proposed Amendments to H.B. 2044

The Subcommittee, chaired by Representative Barr and composed of Representatives Eckert, Jenkins, Sebelius, and Sughrue, held four meetings and received testimony from Kansas Independent Greyhound Owners, Inc.; Kansas Racing Management, Inc.; the Kansas Quarter Horse Association; the Kansas Thoroughbred Association; the Kansas Veterinary Medical Association, Inc.; and Kansas Greyhound Owners for Economic Development. The Subcommittee also reviewed a letter from Dr. James Coffman, Dean of the Kansas State University Veterinary Medical School.

After discussion of the issues raised by the conferees, the Subcommittee concluded that the options were: (1) to retain the bill's current prohibition against the use of drugs; (2) to authorize the Racing Commission to designate the types and amounts of drugs that may be used on race animals; and (3) to include certain exceptions to the no-drug rule in the bill.

The Subcommittee decided to adopt the third option and recommends the following policies for incorporation into the bill:

- Use of phenylbutazone or furosemide (lasix) would be allowed within amounts set by the Commission for thoroughbreds only.
- Female greyhounds would be allowed to have testosterone in their urine or blood when tested prior to or after a race.
- Greyhounds would be able to have a trace of procain in their blood or urine when tested prior to or after a race.
- All allowable drugs and medications would be administered only by the Animal Health Officer or Assistant Animal Health Officers.
- Prohibit possession of any drugs, substances or equipment for administering drugs by anyone, other than the Animal Health Officer or the Assistant Animal Health Officers, within a track.

Attachment C


- Make the first violation of the drug provisions a class A misdemeanor and the second and subsequent violations class C felonies.

The amendments recommended by the Subcommittee are attached.

Submitted February 16, 1987



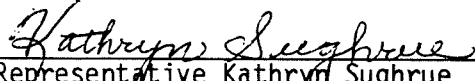
Representative Ginger Barr, Chairman



Representative Dick Eckert

Representative Martha Jenkins

Representative Kathleen Sebelius



Representative Kathryn Sughrue

F87-52.1/MG


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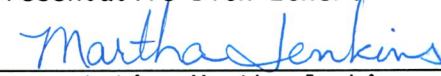
Submitted February 16, 1987



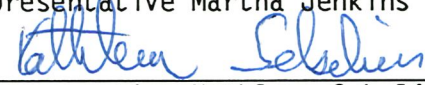
Representative Ginger Barr, Chairman



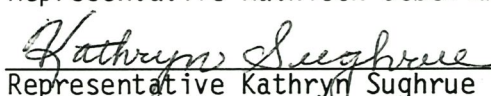
Representative Dick Eckert



Representative Martha Jenkins



Representative Kathleen Sebelius



Representative Kathryn Sughrue

F87-52.1/MG

0083 horse or greyhound race to win, place or show, or combinations
 0084 thereof, as established by the commission, and held by the
 0085 organization licensee pursuant to the parimutuel system of wa-
 0086 gering. There is a separate parimutuel pool for win, for place, for
 0087 show and for each of the other forms of betting provided for by
 0088 the rules and regulations of the commission.

0089 (p) "Parimutuel wagering" means a form of wagering on the
 0090 outcome of horse and greyhound races in which those who wager
 0091 purchase tickets of various denominations on one or more horses
 0092 or greyhounds and all wagers for each race are pooled and the
 0093 winning ticket holders are paid prizes from such pool in amounts
 0094 proportional to the total receipts in the pool.

0095 (q) "Race meeting" means the entire period of time for which
 0096 an organization licensee has been approved by the commission
 0097 to hold horse or greyhound races at which parimutuel wagering
 0098 is conducted or to hold horse races at which parimutuel wagering
 0099 is not conducted.

0100 (r) "Racetrack facility" means a racetrack within Kansas used
 0101 for the racing of horses or greyhounds, or both, including the
 0102 track surface, grandstands, clubhouse, all animal housing and
 0103 handling areas, other areas in which a person may enter only
 0104 upon payment of an admission fee or upon presentation of
 0105 authorized credentials and such additional areas as designated
 0106 by the commission.

0107 (s) "Takeout" means the total amount of money withheld
 0108 from each parimutuel pool for the payment of purses, taxes and
 0109 the share to be kept by the organization licensee. Takeout does
 0110 not include the breakage. The balance of each pool less the
 0111 breakage is distributed to the holders of winning parimutuel
 0112 tickets.

0113 New Sec. 3. (a) There is hereby created the Kansas racing
 0114 commission, consisting of five members who shall be appointed
 0115 by the governor, subject to confirmation by the senate as pro-
 0116 vided by K.S.A. 75-4315b and amendments thereto.

0117 (b) The members of the commission shall meet the following
 0118 qualifications:

0119 (1) Each member shall be a citizen of the United States and

Subcommittee on Medication

(t) "Thoroughbred horse" means any horse that
 meets the requirements of and is registered by the
 jockey club of New York.

0305 (c) The commission may appoint an advisory committee of
 0306 persons knowledgeable in the horse and greyhound breeding
 0307 and racing industries to provide information and recommenda-
 0308 tions to the commission regarding the administration of this act.
 0309 Members of such advisory committee shall serve without com-
 0310 pensation or reimbursement of expenses.

0311 (f) Except as otherwise provided by this act, all employees of
 0312 the commission shall be in the classified service under the
 0313 Kansas civil service act.

0314 New Sec. 6. (a) The commission shall employ an animal
 0315 health officer and such assistant animal health officers as needed
 0316 to serve at the pleasure of the commission. Such officers shall:

0317 (1) Be doctors of veterinary medicine;

0318 (2) be in the unclassified service under the Kansas civil
 0319 service act;

0320 (3) receive such compensation as determined by the com-
 0321 mission, subject to the limitations of appropriations therefor; and

0322 (4) while employed by the commission, devote full time to
 0323 the duties of the office.

0324 (b) The animal health officer shall:

0325 (1) Supervise the formulation, administration and evaluation
 0326 of all medical tests the commission's rules and regulations re-
 0327 quire or authorize;

0328 (2) advise the commission on all aspects of veterinary medi-
 0329 cine relating to its powers and duties;

0330 (3) supervise all personnel involved in conducting physical
 0331 examinations and medical testing of racing animals, as directed
 0332 by the executive director; and

0333 (4) perform such other duties as directed by the commission.

0334 (c) The assistant animal health officers shall:

0335 (1) Conduct physical examinations and medical tests of rac-
 0336 ing animals as prescribed by the commission;

0337 (2) administer emergency treatment of racing animals at race
 0338 meetings as authorized by the owners of such animals or their
 0339 agents; and

0340 (3) perform such other duties as directed by the commission.

0341 ~~(d)~~ The commission may require an organization licensee to

(d) The animal health officer or an assistant
 animal health officer may:

(1) Possess and administer phenylbutazone or
 furosemide (lasix) to thoroughbred horses, as
 authorized by their owners or their owner's agents;

(2) possess and administer testosterone to female
 greyhounds, as authorized by their owners or their
 owners' agents;

(3) possess and administer such other drugs or
 substances as necessary to carry out their duties
 pursuant to this section; and

(4) possess such equipment as necessary to
 administer any drug or substance as authorized by this
 subsection.

(e)

0342 reimburse the commission for services performed by assistant
0343 animal health officers at race meetings conducted by the organi-
0344 zation licensee.

0345 ~~(e)~~ The commission may obtain medical services as required
0346 by contract with an institution which teaches animal health
0347 sciences within the state.

0348 ~~(f)~~ The commission shall contract for the analysis of samples
0349 taken for the purpose of enforcing compliance with section 11
0350 with one or more laboratory facilities in this state.

0351 New Sec. 7. (a) Employees of the Kansas racing commission
0352 designated by the executive director, with the approval of the
0353 commission, are hereby vested with the power and authority of
0354 law enforcement officers in the execution of the duties imposed
0355 upon the commission by the provisions of this act.

0356 (b) Employees designated pursuant to subsection (a) shall
0357 have the authority to:

0358 (1) Make arrests, conduct searches and seizures and carry
0359 firearms while investigating violations of this act and during
0360 routine conduct of their duties as determined by the executive
0361 director; and

0362 (2) issue notices to appear pursuant to K.S.A. 22-2408 and
0363 amendments thereto.

0364 (c) No employee of the commission shall be certified to carry
0365 firearms under the provisions of this section without having first
0366 successfully completed the firearms training course or courses
0367 prescribed for law enforcement officers under subsection (a) of
0368 K.S.A. 74-5604a and amendments thereto.

0369 (d) The commission may adopt rules and regulations pre-
0370 scribing other training required for such employees.

0371 New Sec. 8. Each member, employee or appointee of the
0372 commission, including stewards and racing judges, shall furnish
0373 bond or other good and sufficient security in an amount and upon
0374 such terms as established by the state committee on surety bonds
0375 and insurance pursuant to K.S.A. 75-4101 *et seq.*, and amend-
0376 ments thereto. The cost of any such bonds shall be paid by the
0377 commission.

0378 New Sec. 9. The attorney general shall appoint, with the

(f)

(g)

0116 (d) It is a class A misdemeanor for any person to:

0117 (1) Sell a parimutuel ticket or an interest in such a ticket to a
0118 person knowing such person to be under 18 years of age, upon
0119 conviction of the first offense;

0120 (2) accept, transmit or deliver, from a person outside a race-
0121 track facility, anything of value to be wagered in any parimutuel
0122 system of wagering within a racetrack facility, upon conviction of
0123 the first offense;

0124 ~~(3) violate any provision of this act for which no other penalty~~
0125 is provided for violation;

0126 ~~(4) enter any horse or greyhound in any race knowing such~~
0127 horse or greyhound to be ineligible to compete in such race
0128 pursuant to section 12;

0129 ~~(5) prepare or cause to be prepared an application for regis-~~
0130 tration of a horse pursuant to section 28 knowing that such
0131 application contains false information; or

0132 ~~(6) violate any rule and regulation of the commission.~~

0133 (e) It is a class C felony for any person to:

0134 (1) Sell a parimutuel ticket or an interest in such a ticket to a
0135 person knowing such person to be under 18 years of age, upon
0136 conviction of the second or a subsequent offense;

0137 (2) accept, transmit or deliver, from any person outside a
0138 racetrack facility, anything of value to be wagered in any pari-
0139 mutuel system of wagering within a racetrack facility, upon the
second or a subsequent conviction;

0141 (3) conduct or assist in the conduct of a horse or greyhound
0142 race where the parimutuel system of wagering is used or is
0143 intended to be used and where no license has been issued to an
0144 organization to conduct such race;

0145 (4) enter any horse or greyhound in any race conducted by an
0146 organization licensee knowing that the class or grade in which
0147 such horse or greyhound is entered is not the true class or grade
0148 or knowing that the name under which such horse or greyhound
0149 is entered is not the name under which such horse or greyhound
0150 has been registered and has publicly performed;

0151 (5) use, administer or conspire to use or administer any drug,
0152 substance or device, other than an ordinary whip for horses or a

(3) administer or conspire to administer any drug or
substance for the purpose of stimulating or depressing any
horse or greyhound, or affecting its speed, at any time
during a race conducted by an organization licensee, upon
conviction of the first offense;

(4) except as permitted by section 6, possess or
conspire to possess, within the confines of a racetrack
facility, any drug or substance, other than food and water,
to be administered to a horse or greyhound, upon conviction
of the first offense;

(5) except as permitted by section 6, administer or
conspire to administer, within the confines of a racetrack
facility, any drug or substance, other than food and water,
to a horse or greyhound, upon conviction of the first
offense;

(6)

(7)

(8)

(9)

any device

0153 mechanical hare for greyhounds, for the purpose of stimulating
 0154 ~~or depressing any horse or dog or affecting its speed~~ at any time
 0155 during a race conducted by an organization licensee. ~~Possession~~
 0156 ~~of any such drug, substance or device by anyone within the~~
 0157 ~~confines of a racetrack facility shall be prima facie evidence of~~
 0158 ~~the intent to use such drug, substance or device;~~

affecting the speed of any horse or greyhound

0159 ~~(6) sponge the nostrils or windpipe of a horse for the purpose~~
 0160 of stimulating or depressing such horse or affecting its speed at
 0161 any time during a race meeting conducted by an organization
 0162 licensee;

(10)

0163 ~~(7) alter or attempt to alter the natural outcome of any race~~
 0164 conducted by an organization licensee;

(11)

0165 ~~(8) influence or attempt to influence, by the payment or~~
 0166 promise of payment of money or other valuable consideration,
 0167 any person to alter the natural outcome of any race conducted by
 0168 an organization licensee;

(12)

0169 ~~(9) influence or attempt to influence any member, employee~~
 0170 or appointee of the commission, by the payment or promise of
 0171 payment of money or other valuable consideration, in the per-
 0172 formance of any official duty of that member, employee or
 0173 appointee;

(13)

0174 ~~(10) fail to report to the commission or to one of its employees~~
 0175 or appointees knowledge of any violation of this act by another
 0176 person for the purpose of stimulating or depressing any horse or
 0177 greyhound, or affecting its speed, at any time during any race
 0178 conducted by an organization licensee;

(14)

0179 ~~(11) commit any of the following acts with respect to the prior~~
 0180 racing record, pedigree, identity or ownership of a registered
 0181 horse or greyhound in any matter related to the breeding, buy-
 0182 ing, selling or racing of the animal: (A) Falsify, conceal or cover
 0183 up, by any trick, scheme or devise, a material fact; (B) make any
 0184 false, fictitious or fraudulent statement or representation; or (C)
 0185 make or use any false writing or document knowing that it
 0186 contains any false, fictitious or fraudulent statement or entry; or

(15)

0187 ~~(12) pass or attempt to pass, cash or attempt to cash any~~
 0188 altered or forged parimutuel ticket knowing it to have been
 0189 altered or forged.

(16)

(6) administer or conspire to administer any drug or substance for the purpose of stimulating or depressing any horse or greyhound, or affecting its speed, at any time during a race conducted by an organization licensee, upon conviction of the second or a subsequent offense;

(7) except as permitted by section 6, possess or conspire to possess, within the confines of a racetrack facility, any drug or substance, other than food and water, to be administered to a horse or greyhound, upon conviction of the second or a subsequent offense;

(8) except as permitted by section 6, administer or conspire to administer, within the confines of a racetrack facility, any drug or substance, other than food and water, to a horse or greyhound, upon conviction of the second or a subsequent offense;

(9) except as permitted by section 6, possess or conspire to possess, within the confines of a racetrack facility, equipment for administering any drug or substance, other than food and water, to a horse or greyhound;

0416 (d) It is a class A misdemeanor for any person to:

0417 (1) Sell a parimutuel ticket or an interest in such a ticket to a
0418 person knowing such person to be under 18 years of age, upon
0419 conviction of the first offense;

0420 (2) accept, transmit or deliver, from a person outside a race-
0421 track facility, anything of value to be wagered in any parimutuel
0422 system of wagering within a racetrack facility, upon conviction of
0423 the first offense;

0424 (3) violate any provision of this act for which no other penalty
0425 is provided for violation;

0426 (4) enter any horse or greyhound in any race knowing such
0427 horse or greyhound to be ineligible to compete in such race
0428 pursuant to section 12;

0429 (5) prepare or cause to be prepared an application for regis-
0430 tration of a horse pursuant to section 28 knowing that such
0431 application contains false information; or

0432 (6) violate any rule and regulation of the commission.

0433 (e) It is a class C felony for any person to:

0434 (1) Sell a parimutuel ticket or an interest in such a ticket to a
0435 person knowing such person to be under 18 years of age, upon
0436 conviction of the second or a subsequent offense;

0437 (2) accept, transmit or deliver, from any person outside a
0438 racetrack facility, anything of value to be wagered in any pari-
0439 mutuel system of wagering within a racetrack facility, upon the
0440 second or a subsequent conviction;

0441 (3) conduct or assist in the conduct of a horse or greyhound
0442 race where the parimutuel system of wagering is used or is
0443 intended to be used and where no license has been issued to an
0444 organization to conduct such race;

0445 (4) enter any horse or greyhound in any race conducted by an
0446 organization licensee knowing that the class or grade in which
0447 such horse or greyhound is entered is not the true class or grade
0448 or knowing that the name under which such horse or greyhound
0449 is entered is not the name under which such horse or greyhound
0450 has been registered and has publicly performed;

0451 (5) use, administer or conspire to use or administer any drug,
0452 substance or devise, other than an ordinary whip for horses or a

Attachment E

0453 mechanical hare for greyhounds, for the purpose of stimulating
0454 or depressing any horse or dog or affecting its speed at any time
0455 during a race conducted by an organization licensee. Possession
0456 of any such drug, substance or device by anyone within the
0457 confines of a racetrack facility shall be prima facie evidence of
0458 the intent to use such drug, substance or device;

0459 (6) sponge the nostrils or windpipe of a horse for the purpose
0460 of stimulating or depressing such horse or affecting its speed at
0461 any time during a race meeting conducted by an organization
0462 licensee;

3 (7) alter or attempt to alter the natural outcome of any race
0464 conducted by an organization licensee;

0465 (8) influence or attempt to influence, by the payment or
0466 promise of payment of money or other valuable consideration,
0467 any person to alter the natural outcome of any race conducted by
0468 an organization licensee;

0469 (9) influence or attempt to influence any member, employee
0470 or appointee of the commission, by the payment or promise of
0471 payment of money or other valuable consideration, in the per-
0472 formance of any official duty of that member, employee or
0473 appointee;

0474 (10) fail to report to the commission or to one of its employees
0475 or appointees knowledge of any violation of this act by another
0476 person for the purpose of stimulating or depressing any horse or

7 greyhound, or affecting its speed, at any time during any race
0478 conducted by an organization licensee;

0479 (11) commit any of the following acts with respect to the prior
0480 racing record, pedigree, identity or ownership of a registered
0481 horse or greyhound in any matter related to the breeding, buy-
0482 ing, selling or racing of the animal: (A) Falsify, conceal or cover
0483 up, by any trick, scheme or device, a material fact; (B) make any
0484 false, fictitious or fraudulent statement or representation; or (C)
0485 make or use any false writing or document knowing that it
0486 contains any false, fictitious or fraudulent statement or entry; ~~or~~

0487 (12) pass or attempt to pass, cash or attempt to cash any
0488 altered or forged parimutuel ticket knowing it to have been
0489 altered or forged;

; or (13) use any animal or fowl in the
training of racing greyhounds

State of Florida
Department of Business Regulation
Bob Martinez, Governor
E. James Kearney, Secretary



Division of Pari-Mutuel Wagering
Robert M. Rosenberg, Director
1350 Northwest 12th Avenue, Suite 332
Miami, Florida 33136-2169
(305) 325-3475

February 10, 1987

The Honorable Ginger Barr
House of Representatives
The State Capitol
Topeka, Kansas 66612

Dear Representative Barr:

This letter is to summarize our conversation of February 10, 1987 concerning greyhound racing.

Florida is a no-medication state with respect to greyhound racing. The general theory is that if a dog requires medication, it should be removed from the grounds of a racetrack and treated. It is true, however, that procaine, a substance found in some penicillin mixtures, is frequently detected in racing greyhounds. Florida has set a limit at which procaine can be detected but not reported based upon extensive study on the use of grade 4-D meat. Otherwise, it is reported as an illegal medication and the trainer of that dog is penalized.

As to the use of live rabbits in the training of greyhounds, Florida's legislature responded to that issue by prohibiting the practice either at a track or on a farm; this prohibition falls under our "cruelty to animals" statutes. While I am merely expressing an opinion, it would seem logical that any advantage to be gained through the use of live lures is irrelevant if no one is permitted to do so, placing all racing dogs on equal footing. Among the primary concerns our regulatory agency is to assure that the sport is a fair contest, and that the public will have all the information it needs to wager competently. The elimination of such an advantage, whether real or imagined, can only serve to protect the interests of the wagering public.

I hope that this provides you with the information you need. Please call if you need further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Gouge".

Michael D. Gouge
Assistant Director

Attachment F

Information Regarding License Terms in Other States

Prepared By:
D. Philip Wilkes, Staff Attorney
Kansas Department of Revenue

<u>State</u>	<u>Year Started</u>	<u>Type of Racing</u>	<u>Major Tracks in Operation</u>	<u>License Term</u>
Arkansas	1935	Greyhounds	1 Greyhound	Franchises - no expiration date Same
		Horses	1 Thoroughbred	
California	1933	Horses only	5 Thoroughbred 3 Quarterhorse 2 Harness	Annual (per race meeting)
Colorado	1949	Greyhounds	5 Greyhound	Annual
		Horses	None (2 went out of operation in 1984)	Annual
Iowa	1983	Greyhounds	3 Greyhound	3 years
		Horses	None yet but a Thoroughbred track is being built	3 years
Kentucky	1900?	Horses only	4 Thoroughbred 3 Harness	Annual
Massachusetts	1934	Greyhounds	3 Greyhound	Annual
		Horses	1 Thoroughbred 1 Harness	Annual
Minnesota	1984	Horses only	1 Thoroughbred	Annual
Missouri	1984	Horses only	None yet	Annual
Nebraska	1935	Horses only	5 Thoroughbred 3 Quarterhorse	Annual
New Jersey	1940	Horses only	2 Thoroughbred 1 Harness 2 Mixed	Annual
New Mexico	1933	Horses only	4 Mixed (T & Q)	Annual
New York	1941	Horses only	4 Thoroughbred 4 Harness	Annual
Oklahoma	1983	Horses only	1 Mixed (T & Q) 1 Thoroughbred under construction	Annual

0195 each race meeting. The commission shall promptly remit any
0196 such proceeds received to the state treasurer, who shall deposit
0197 the entire amount in the state treasury and credit it to the Kansas
0198 greyhound breeding development fund created by section 29.

0199 New Sec. 23. (a) There is hereby imposed a tax on the gross
0200 sum wagered by the parimutuel method as follows:

0201 (1) A tax at the rate of 3/18 of the total daily takeout from _____ races held at racetrack facilities for the racing of horses or both
0202 parimutuel pools for ~~horse races~~; and _____ horses and greyhounds

0203 (2) ~~a tax at the rate of 5/18 of the total daily takeout from~~
0204 ~~parimutuel pools for greyhound races.~~ _____ subject to the provisions of subsection (c),

0205 (b) The tax imposed by this section shall be remitted to the _____ races held at racetrack facilities for the racing of greyhounds
0206 commission by each organization licensee by the next business
0207 day following the day on which the wagers took place. The

0208 commission shall promptly remit any such tax moneys received
0209 to the state treasurer, who shall deposit the entire amount in the
0210 state treasury and credit it to the state gaming revenues fund
0211 created by K.S.A. 1986 Supp. 79-4801 and amendments thereto.

0212 ~~(c) The commission shall audit and verify that the amount of~~
0213 ~~tax received from each organization licensee hereunder is cor-~~
0214 ~~rect.~~

0215 New Sec. 24. (a) There is hereby imposed a tax on admis-
0216 sions to racetrack facilities at the rate of 10% of:

0217 (1) The amount received from charges for admissions to such
0218 facilities, excluding any amount paid for retailers' sales tax
0219 thereon; and

0220 (2) except as provided by subsection (c), the value of free or
0221 complimentary admissions to such facilities, computed as if
0222 regular and usual admission rates were charged therefor.

0223 (b) The tax imposed by this section shall be remitted by each
0224 organization licensee by the next business day following the day
0225 on which the admissions were paid or, if free or complimentary,
0226 were used. The commission shall promptly remit any such tax
0227 moneys received to the state treasurer, who shall deposit the
0228 entire amount in the state treasury and credit it to the state racing
0229 fund created by section 26.

0230 (c) Organization licensees may issue to actual and necessary
0231 officials and employees of the licensee or other persons actually

subject to the provisions of subsection (c),

races held at racetrack facilities for the racing of greyhounds

(c) The tax rate for a racetrack facility for the racing of
greyhounds shall be reduced to the rate provided by subsection
(a)(1) for a period of time specified by the commission if:

(1) The owner of the facility submits to the commission
evidence, satisfactory to the commission, of a bona fide intent
to construct as a part of such facility a racetrack for the
racing of horses; and

(2) such racetrack for the racing of horses is constructed
within such period of time specified by the commission.

If the racetrack for the racing of horses is not constructed
within the specified period, the difference between the amount of
tax moneys generated at the reduced tax rate and the amount of
tax moneys generated at the tax rate imposed by subsection (a)(2)
shall be due and owing from the time such tax would have been
imposed by subsection (a)(2) but for the provisions of this
subsection, with interest thereon at the rate provided by K.S.A.
79-2968 and amendments thereto from such time.

(d)

Attachment #