

Approved 4-25-89 Ginger Barr, Chm
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

7:11 a.m./p.m. on March 31, 1989 in room 526-S of the Capitol.

All members were present except:

Representative Betty Jo Charlton
Representative Arthur Douville - Excused
Representative Mike Peterson

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary, Galligan, Kansas Department of Legislative Research
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

None

HB 2189

Mary Torrence reported on the definition of "under the influence". The DUI laws seem applicable only to situations involving vehicles. Wisconsin appears to be the only state with an applicable definition, "the person's ability to handle firearms is materially impaired due to alcohol or a controlled substance". With DUI there is implied consent and condition of driving. No other states seem to have implied consent for firearms though it may be possible if there would be condition of license.

Enforcement was discussed concerning which agency(ies) would be responsible and if Fish & Game personnel had the necessary equipment for blood alcohol and breath tests.

Line 43 re: carrying a loaded weapon while under the influence would be a policy decision for the committee.

There was no objection to the intent of the bill. In recognition of the shortage of time, the desire to work the bill properly and to make it enforceable, the committee voted to table the bill. The motion was made by Representative Aylward and seconded by Representative Ramirez.

HB 2237

Representative Sebelius moved to report the bill favorably and was seconded by Representative Jones. The definition of "unknowingly" was discussed briefly and felt to be covered by line 33 which says, "unknowingly sold to a minor who used a false I.D." which would seem to require the dealer had checked for I.D. Knowingly means a "reasonable standard".

Representative Bryant submitted language from the obscenity statute which more clearly defines a false I.D., Attachment No. A. He made a conceptual motion for staff to blend the suggested language with the bill, changing the age from 18 to 21 years. The motion was seconded by Representative Ensminger and the motion carried.

The motion was changed to report the bill favorably as amended and carried on a voice vote.

HB 2376

The bill would permit the attorney general, county and district attorneys to enforce the open records statute. Representative Aylward made a motion to report the bill favorably. The motion was seconded by Representative Roy and carried on a voice vote.

There is no
Attachment No. 4
in this set of
minutes. JB
7/10/89

CONTINUATION SHEET

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room 526-S, Statehouse, at 7:11 a.m./~~p.m.~~ on March 31, 1989.

HB 2452

Representative Roper moved to report the bill adversely stating the health spas did not seem to belong in the bill. Representative Jones seconded the motion. Representative Sprague made a substitute motion to delete health spas from the bill and was seconded by Representative Ensminger. Discussion centered around the problem experienced with health spas in urban areas bankrupting or closing without notice and the expansion of the bill to include escrow accounts and surety bonds. Citing the many unresolved problems with the bill, Representative Schauf made a motion to table the bill. The motion was seconded by Representative Sebelius and carried on a voice vote.

SB 152

The revisor made note that the bill only addresses furnishing cereal malt beverage (CMB) to a minor, does not address liquor and questioned if exclusion of liquor was an oversight. Representative Aylward cited the stricken language in line 26 re: minimum fines and moved to reinsert the minimum fines, seconded by Representative Sebelius. Representative Roy restated opinions he expressed during the bill's hearing, March 21, 1989, regarding recently enacted legislation that upgraded fines for consumption by and furnishing of alcohol to minors. He then moved to table the bill, seconded by Representative Schauf. The motion carried. Requested to be recorded as voting no were: Representatives Aylward, Bryant, Eckert, Ensminger, Jenkins, Jones and Sutter.

SB 153

Representative Roy made a motion to table the bill, seconded by Representative Sebelius. The motion carried. Requested to be recorded as voting no were: Representatives Aylward, Bryant, Eckert, Ensminger, Jenkins, Jones and Sutter.

HB 2460

Representative Aylward moved to recommend the bill favorably, seconded by Representative Gjerstad. The motion carried.

HB 2334

Representative Long gave the subcommittee report reviewing changes to the bill introduced March 22, 1989, Attachment No. 1. The changes are:

1. page two, sub (c), line 3 - the original language "no other members" was changed to "such other members".
2. bottom of page two - is language requested by the Racing Commission requesting information on fingerprinting of concessionaires which is meant to strengthen the requirements of the concessionaire's license.
3. Representative Long stated the language on page three is also language "requested by the Kansas Racing Commission as it thought the language would help strengthen the requirement for a concessionaire's license". The Commission may require the concessionaire applicant to pay for fingerprinting if the application fee won't cover the cost.
4. page four - (e) refers to the refusal to renew a concessionaire/manager's license in accordance with the Kansas administrative procedures act and (f) the grant or denial of an original concessionaire license to be granted by the Racing Commission.
5. page five - this is a substantial change and addresses Kansas bred racing. Representative Long stated that failure to change this section will result in the Racing Commission being involved in a lawsuit. The revisor explained the current definition of Kansas bred horse does not recognize subclassifications of Kansas bred for purposes of prizes and awards. A Kansas bred horse has to be dropped in the State of Kansas. One member asked if this section established classes between different breeds or lengths of races. No one provided an answer.
6. page six - is an amendment concerning funds credited to the fund during a fiscal year and refers to the greyhound [Section 4 (b) 3] and Kansas bred horse [Section 4 (b) 4] programs.

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room 526-S, Statehouse, at 7:11 a.m./~~p.m.~~ on March 31, 1989

Mary Torrence advised that some of the changes are conformity provisions regarding action by the 1988 Legislature and the concessionaire's license.

re: Sec. 4 (b) 4, Jonathan Small, Greenwood County Fair Association (GCFA) explained there is a certain amount of money from each race that goes into the account but is not dispersed to a registering agency. The Commission would review the agency's budget and authorize the disbursement. This provides a ceiling if there is justification for it.

Representative Long reviewed the proposed language from Sunflower Racing regarding permitting employees to bet at another track, Attachment No. 2. The language originally presented at the March 22, 1989, meeting. The subcommittee asked that the proposed bill be introduced.

Representative Long moved to approve the subcommittee's report, seconded by Representative Sebelius. The motion carried.

Representative Schauf made a motion to incorporate the language proposed by Sunflower Racing, Inc., into Sub. HB 2334, seconded by Representative Sutter.

Discussion

1. Representative Long stated no objection to the purpose of the proposed language but opposed its incorporation in the bill.
2. Historically, the policy of this committee has been to exclude such employees from wagering. Therefore, it was suggested the policy be reviewed along with the testimony from the March 22, 1989, meeting before any action is taken.
3. One member stated the exclusion of "non-essential employees" from betting at a track other than the one at which they are employed was an oversight by the committee.
4. It was noted that the Commission can be more restrictive than the statute but not less.
5. The revisor advised that current law does not prohibit the spouse, children or relatives of any employee of a licensee from making wagers.
6. It was asked if the intent of the language in Section 4 (b) 4 was usual procedure in the racing industry.

Jimmy Grenz, Executive Director of the Kansas Racing Commission, indicated he was unaware of it was usual procedure. He stated the request was brought by the people who would be administering the program believing they did not have enough money to administer it. The amount is to be a maximum, reviewed annually, and eliminated if the program becomes self-supportive.

For purposes of clarification, one member of the committee explained that the \$30,000 would come from a portion of the purse contributed by the people participating in the Kansas bred program. The money would not be the state portion of the fund.

7. re: Attachment No. 2, another member of the committee contended only the employees in the racing and mutuels departments are prohibited from wagering. While the language may not be explicit, by process of elimination, it makes the statement that employees, except those mentioned above, can bet at any track. The revisor stated that under the current law there is no prohibition of the organization licensee employees being able to wager. An example would be - the organization licensee is the private, non-profit organization conducting the race. The current prohibition in the law is against the facility owner licensee and employees and the facility manager licensee and employees (from wagering). She advised the amendment seemed to change the focus of what is prohibited from the facility people to the organization licensees. To clarify - a member stated the amendment would permit the facility owner, who is the for-profit unit, to be able to wager. The non-profit unit (which could be a board of five people) would be prohibited from wagering. Current law is the opposite.

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8. re: Attachment No. 2, the stricken language in Section 1, (d)(2) & (3) was questioned regarding prohibiting a facility owner licensee, manager licensee, or concessionaire licensee or officers or directors from placing wagers. The revisor stated the rationale was uncertain as the draft had been submitted to her and not drafted by her office.

Representative Schauf clarified her motion was not to combine the two bills but rather to take the language from Section 1(f)(1)&(2), Attachment No. 2, and amend it into Attachment No. 1. The proposed language is Attachment No. 3. The previous concern (No. 7) is not intended to be a part of this motion. The revisor asked if the intent was to not delete Section 1 (d)(2)(3). The representative stated her intention was for the revisor to make the proposed language fit into the bill.

9. Representative Roy recommended the amendment be rejected as it could cost the GCFA and Anthony Fair a significant amount of money and the bill could fail. He recommended the two be handled as separate issues.
10. Representative Sebelius stated she would support an amendment on the House floor which accomplishes the intent but stated the proposed language did not seem to be the same as the intent of the committee.

The motion by Representative Schauf to amend proposed language into Representative Long's bill failed.

The motion to adopt the subcommittee's report carried.

Representative Long moved to introduce Attachment No. 1 as Substitute for HB 2334 and pass it favorably. The second was by Representative Aylward.

There was discussion about the \$30,000 subsidy to the greyhound industry for its registry. One member stated apprehension about the subsidy and recalled discussion, four years past, by the committee on the issue. It was predicted that out of state breeders would register their animals in Kansas because of the subsidy. Another member disagreed that it was a subsidy since the breeders would be contributing to the fund and the animals must be Kansas bred dogs.

The motion carried.

Representative Long moved to introduce 9 RS 1369 as a second bill, seconded by Representative Aylward. The motion carried.

SB 243

Representative Roper made a motion to report the bill favorably, seconded by Representative Ramirez. Representative Aylward made a substitute motion to amend the bill to incorporate corporate hog farms, strictly limiting the bill to the DeKalb operation in western Kansas, Attachment No. 5. Representative Sebelius seconded the motion. The amendment is germane in that it refers to Chapter 17 (K.S.A.) as referenced in line 198 of SB 243. The committee deferred further action or discussion on the bill until the revisor returned.

HR 6040

Attachment No. 6 is the balloon version of the resolution with changes suggested by the Islamic community regarding the responsibility of the freedom of speech. The changes were made by Representative Barkis. Representative Sebelius moved to report the resolution favorably and was seconded by Representative Roy. One member of the committee opposed recognizing the Ayatollah in any manner. The motion carried.

Representative Jenkins moved to approve the minutes of the meetings of March 13, March 14, March 15, March 20 and March 21, 1989. Representative Bryant seconded the motion which carried.

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SB 243.

The revisor advised that Representative Aylward's amendment was germane to the bill.

Representative Roy made a substitute motion to table the bill, seconded by Representative Eckert. The motion failed.

After brief discussion between committee members, the substitute motion to amend failed. Division was called and the motion failed.

Representative Sebelius made a substitute motion to table the bill. It was seconded by Representative Aylward and failed on a voice vote.

Representative Gjerstad made a substitute motion to open the records after twenty years, seconded by Representative Bryant. The motion carried.

Representative Long made a substitute motion to amend the bill by striking "35" on line 39 and inserting "36". He explained there was concern whether this would apply to a Sub (s) corporation. If the number were changed to 36, it would, where if it were 35 it would be questionable. Representative Gjerstad seconded the motion. The effect on parimutuel licenses was questioned by one member of the committee. The revisor responded the information might not be available to the public but would have to be made available to the Commission.

One member stated opposition to the entire bill citing alternatives available to any corporation not particularly appreciative of the protection offered by the Kansas Corporation Code. The company could operate entirely as a private business and assume any liabilities as an individual. Foreign corporations doing business in Kansas are also required to keep their records open.

The substitute motion to change "35" to "36" passed.

Representative King moved to pass the bill favorably, as amended, seconded by Representative Bryant. A member stated it did not seem a good message to the public to close corporate records at a time when opening the parimutuel industry and trying to keep it "squeaky clean" with corporations running parimutuel.

Representative Ensminger offered a substitute conceptual motion to add a new (5) under New Section 1 to exclude those corporations that were a licensee or an applicant of the Racing Commuission's. In response to a question from the chairman, Representative Ensminger answered affirmatively that the motion included "anyone having anything to do with parimutuel" - the licensees or the applicants. Representative Long seconded the motion. In response to a question from a committee member, Bill Graves, Secretary of State, explained that an organization would have to apply to the Secretary of State's office and substantiate certain criteria to close the records. That office should then be able to determine if an organization is non-profit. As a result of further discussion, Representative Ensminger included lottery vendors in his motion. On a point of clarification, one member asked if the need to know provision excluded the press to which the revisor answered affirmatively. The motion carried.

Referring to lines 46 - 48 and stating the importance of the press having access to records, Representative Aylward made a substitute motion to permit access to the records by the press. The motion was seconded by Representative Sebelius. One member of the committee noted there are no laws regulating the press and questioned how press could be identified. The motion failed.

On a point of clarification, a member referred to testimony during the hearing on the bill, March 29, 1989, and asked for affirmation that 47 other states have this law. It was affirmed. Representative King moved to pass the bill favorably as amended. The motion was seconded and passed. Representative Sebelius requested to be recorded as voting no.

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MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 7:11 a.m./~~pm~~ on March 31, 19 89

Representative King moved to pass favorably RS 9 1369 (Attachment No. 3). The motion was seconded by Representative Aylward and carried on a voice vote.

The meeting adjourned at 8:57 a.m. The next meeting of the committee will be on call of the chairman.

CASE ANNOTATIONS

1. Crimes in which prior conviction is a necessary element distinguished from crimes considered in establishing penalties. *State v. Loudermilk*, 221 K. 157, 160, 557 P.2d 1229.

2. Referred to in holding 21-4301(3) constitutional except for words "other similar justification"; surplusage. *State v. Next Door Cinema Corp.*, 225 K. 112, 114, 587 P.2d 326.

21-4301b. Severability of 21-4301, 21-4301a. If any provision of this act is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

History: L. 1970, ch. 128, § 3; July 2.

CASE ANNOTATIONS

1. Applied in construing 21-4301 (3); words "other similar justification" vague and indefinite; remainder of section constitutional. *State v. Next Door Cinema Corp.*, 225 K. 112, 114, 116, 118, 587 P.2d 326.

21-4301c. Promotion to minors of obscenity harmful to minors. (a) No person having custody, control or supervision of any commercial establishment shall knowingly:

(1) Display any material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material or device;

(2) sell, furnish, present, distribute or disseminate to a minor, or otherwise allowing a minor to view, with or without consideration, any material which is harmful to minors; or

(3) present to a minor, or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(b) Violation of subsection (a) is a class B misdemeanor.

(c) Notwithstanding the provisions of K.S.A. 21-3202 and amendments thereto to the contrary, it shall be an affirmative defense to any prosecution under this section that:

(1) The allegedly harmful material or device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.

(2) The defendant is an officer, director, trustee or employee of a public library and the

allegedly harmful material or device was acquired by a public library and was disseminated in accordance with regular library policies approved by its governing body.

(3) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.

(4) With respect to a prosecution for an act described by subsection (a)(1), the allegedly harmful material was kept behind blinder racks.

(5) With respect to a prosecution for an act described by subsection (a)(2) or (3), the defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more.

(6) With respect to a prosecution for an act described by subsection (a)(3), the allegedly harmful performance was viewed by the minor in the presence of such minor's parent or parents or such minor's legal guardian.

(d) As used in this section:

(1) "Blinder rack" means a device in which material is displayed in such a manner that the lower 2/3 of the material is not exposed to view.

(2) "Harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection (a)(1), that portion of the material that was actually exposed to the view of minors, has the following characteristics:

(A) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

(B) the average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(C) a reasonable person would find that the material or performance lacks serious literary,

PROPOSED Substitute for HOUSE BILL NO. 2334

By Committee on Federal and State Affairs

AN ACT amending the Kansas parimutuel racing act; amending K.S.A. 1988 Supp. 74-8814, 74-8817, 74-8830 and 74-8831 and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 74-8814 is hereby amended to read as follows: 74-8814. (a) Subject to the provisions of subsection (b), the commission shall establish by rules and regulations application-and--license--fees--not--exceeding--those provided--by--K.S.A.--1987--Supp.--74-8813 an application fee not exceeding \$500 for any of the following which applies for an organization license and the license fee for any of the following granted an organization license shall be \$100 for each day of racing approved by the commission:

(1) Any fair association, other than the Greenwood county and Anthony fair associations, organized pursuant to K.S.A. 2-125 et seq. and amendments thereto, or the national greyhound association of Abilene, Kansas, if: (A) Such association conducts not more than two race meetings each year; (B) such race meets are held within the boundaries of the county where the applicant is located; and (C) such race meetings are held for a total of not more than 21 days per year; or

(2) the Greenwood county fair association or the Anthony fair association with respect to race meetings conducted by such association at Eureka Downs or Anthony Downs, respectively, for which the number of race meetings and days, and the dates thereof, shall be specified by the commission.

(b) The application fee for a county fair association applying for an organization license to conduct only harness horse races without parimutuel wagering shall be \$50 for each

application, and no license fee shall be required of such association for any day of a race meeting of less than 10 days of only harness horse racing without parimutuel wagering.

(c) The Kansas bureau of investigation shall investigate the president, vice-president, secretary and treasurer of a county fair association, and such other members as the commission considers necessary, to determine eligibility for an organization license.

(d) Except as otherwise provided by this section, all applicants for organization licenses for the conduct of race meetings pursuant to the provisions of this section shall be required to comply with all the provisions of K.S.A. 1987 1988 Supp. 74-8813 and amendments thereto.

Sec. 2. K.S.A. 1988 Supp. 74-8817 is hereby amended to read as follows: 74-8817. (a) No organization licensee or facility manager licensee shall permit any business not owned and operated by the organization licensee to sell goods within a racetrack facility where the organization licensee conducts race meetings unless such business has been issued a concessionaire license by the commission.

(b) Businesses required to be licensed pursuant to this section shall apply for concessionaire licenses in a manner and upon forms prescribed and furnished by the commission. The commission shall require disclosure of information about the owners and officers of each applicant ~~and all employees of the applicant who will be working within the racetrack facility and may require such owners, officers and employees to submit to fingerprinting~~ and may require such owners and officers to submit to fingerprinting. The commission also may require disclosure of information about and fingerprinting of such employees of each applicant as the commission considers necessary. Concessionaire licenses shall be issued for a period of time established by the commission but not to exceed 10 years. The commission shall establish a schedule of application fees and license fees for concessionaire licenses based upon the type and size of business.

The application fee shall not be refundable if the business fails to qualify for a license ~~and such fee shall include the cost of processing fingerprints if they are required by the commission.~~ If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(c) The commission may require applicants as a condition of licensure to consent to allow agents of the Kansas bureau of investigation or security personnel of the commission to search without warrant the licensee's premises and personal property and the persons of its owners, officers and employees while engaged in the licensee's business within the racetrack facility or adjacent facilities under the control of the organization licensee for the purpose of investigating criminal violations of this act or violations of rules and regulations of the commission.

~~(d) Denial of a concessionaire license by the commission shall be in accordance with the Kansas administrative procedure act.~~ The commission may refuse to issue a concessionaire license to any business if any person having an ownership interest in such business, any person who is an officer of such business or any person employed by such business within the racetrack facility;

(1) Has been convicted of a felony in a court of any state or of the United States;

(2) has been convicted of violation of any law of any state or of the United States involving gambling or controlled

substances;

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

(4) has been found by the commission to have violated any provision of this act or any rule and regulation of the commission.

(e) The refusal to renew a concessionaire manager license shall be in accordance with the Kansas administrative procedure act and shall be subject to review under the act for judicial review and civil enforcement of agency actions.

(f) The grant or denial of an original concessionaire license shall not be subject to the Kansas administrative procedure act. Such grant or denial shall be a matter to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one of two or more competing applicants without the necessity of a hearing on the denial of a license to each other competing applicant. Any action for judicial review of such decision shall be by appeal to the supreme court in accordance with the act for judicial review and civil enforcement of agency actions, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for the concessionaire license shall be parties to such appeal. Any such appeal shall have priority over other cases except those having statutory priority.

(g) The commission may suspend or revoke the concessionaire license of any business for any reason which would justify refusal to issue such a license. Proceedings to suspend or revoke such license shall be conducted by the commission or its appointed hearing officer in accordance with the provisions of the Kansas administrative procedure act.

{f} (h) The commission may provide by rules and regulations for the temporary suspension of a concessionaire license by

summary adjudicative proceedings in accordance with the Kansas administrative procedure act upon finding that there is probable cause to believe that grounds exist for a permanent suspension or revocation of such license. Such suspension shall be for a period not exceeding 30 days. Upon expiration of such suspension, the license shall be restored unless the license has been suspended or revoked as a result of proceedings conducted pursuant to subsection ~~(e)~~ (g).

Sec. 3. K.S.A. 1988 Supp. 74-8830 is hereby amended to read as follows: 74-8830. (a) The commission shall, by rules and regulations:

(1) Qualify stallions for participation in Kansas-registered stallion awards;

(2) provide for the registration of Kansas-domiciled mares, Kansas-domiciled stallions and Kansas-bred horses;

(3) establish classes of Kansas-bred horses for registration purposes and for the purpose of awarding purse supplements, stakes and awards pursuant to K.S.A. 1988 Supp. 74-8829 and amendments thereto; and

~~(3)~~ (4) establish a schedule of fees for the registration of Kansas-domiciled mares, Kansas-domiciled stallions and Kansas-bred horses sufficient to provide for all expenses incurred in the administration of the Kansas horse breeding development fund created pursuant to K.S.A. 1987 1988 Supp. 74-8829 and amendments thereto.

(b) The commission may contract with and designate an official registering agency to implement the registration of horses. Such agency shall operate under the supervision of the commission and be subject to rules and regulations of the commission. The official registering agency shall receive no compensation except fees received for registration of horses necessary to pay its expenses for such registration.

(c) The commission may contract with and designate an agency to provide for the distribution of purse supplements, stakes and awards from the Kansas horse breeding development

fund. Such agency shall operate under the supervision of the commission and be subject to rules and regulations of the commission.

Sec. 4. K.S.A. 1988 Supp. 74-8831 is hereby amended to read as follows: 74-8831. (a) There is hereby created in the state treasury the Kansas greyhound breeding development fund to which money shall be credited as provided by this act. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(b) Moneys credited to the fund shall be expended as follows:

(1) An amount equal to 15% of all moneys credited to the fund during a fiscal year shall be transferred by the director of accounts and reports on June 30 of each year to the greyhound tourism fund created by subsection (c);

(2) an amount equal to 35% of all moneys credited to the fund during a fiscal year shall be used for research conducted within the state of Kansas relating to the prevention of injury to and disease of greyhounds; and

(3) an amount equal to 50% of all moneys credited to the fund during a fiscal year, less the amount determined by the commission pursuant to subsection (b)(4), shall be used by the racetrack facilities where derived to supplement stake races for Kansas-whelped greyhounds as approved by the commission; and

(4) an amount determined by the commission, but not to exceed \$30,000 of the moneys credited to the fund during a fiscal year, shall be used to pay a portion of the administrative costs of the official registering agency designated by the commission pursuant to K.S.A. 74-8832 and amendments thereto.

(c) There is hereby created in the state treasury the greyhound tourism fund. Moneys in such fund shall be used only for the promotion of greyhound-related tourism. Expenditures from such fund shall be made in accordance with appropriation acts

upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or a person designated by the secretary.

Sec. 5. K.S.A. 1988 Supp. 74-8814, 74-8817, 74-8830 and 74-8831 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

PROPOSED BILL NO. _____

By Committee on Federal and State Affairs

AN ACT amending the Kansas parimutuel racing act; concerning certain unlawful acts; amending K.S.A. 1988 Supp. 38-1502, 38-1602 and 74-8810 and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 74-8810 is hereby amended to read as follows: 74-8810. (a) It is a class A misdemeanor for any person to have a financial interest, directly or indirectly, in any racetrack facility within the state of Kansas:

(1) While such person is a member of the commission or during the five years immediately following such person's term as member of the commission; or

(2) while such person is an officer, director or member of an organization licensee, other than a county fair association, or during the five years immediately following the time such person is an officer, director or member of such an organization licensee.

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

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

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

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

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

(c) It is a class A misdemeanor for any member, employee or appointee of the commission, or any spouse, parent, grandparent, brother, sister, child, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law thereof, to:

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

(2) enter into any business dealing, venture or contract with 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, other than a county fair association, 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; or

(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; ~~or~~

~~(3) place a wager on an entry in a horse or greyhound race conducted by an organization licensee.~~

(e) It is a class A misdemeanor for any facility owner licensee or facility manager licensee, or any officer, director or employee thereof, to:

~~(1) participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a race meeting conducted in this state; ~~or~~~~

~~(2) place a wager on an entry in a horse or greyhound race~~

conducted-by-an-organization-licensee.

(f) (1) It is a class A misdemeanor for any employee of an organization licensee, employed in the racing department or the mutuels department at a racetrack owned or operated by the licensee, to place a wager on an entry in a horse or greyhound race conducted: (A) By such organization licensee; (B) at any racetrack owned or operated by such organization licensee; or (C) at any racetrack owned or managed by the same facility owner licensee or facility manager licensee which owns or manages the racetrack operated by such organization licensee.

(2) Subsection (f)(1) shall not be construed as applying to other employees, officers or directors of an organization licensee, facility manager licensee or facility owner licensee having no day-to-day responsibility for supervision of the conduct of the races or to the spouse, children or relatives of any employee of a licensee who are making wagers on their own behalf.

(g) It is a class B misdemeanor for any person to use any animal or fowl in the training or racing of racing greyhounds.

~~(g)~~ (h) It is a class A misdemeanor for any person to:

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

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

(3) administer or conspire to administer any drug or medication to a horse or greyhound within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the first offense;

(4) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse or greyhound in violation of rules and regulations of the commission, upon conviction of the first offense;

(5) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses or greyhounds in violation of rules and regulations of the commission, upon conviction of the first offense;

(6) enter any horse or greyhound in any race knowing such horse or greyhound to be ineligible to compete in such race pursuant to K.S.A. 1987 1988 Supp. 74-8812 and amendments thereto; or

(7) prepare or cause to be prepared an application for registration of a horse pursuant to K.S.A. 1987 1988 Supp. 74-8830 and amendments thereto knowing that such application contains false information.

~~(h)~~ (i) It is a class E felony for any person to:

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

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

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

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

(5) use or conspire to use any device, other than an ordinary whip for horses or a mechanical hare for greyhounds, for the purpose of affecting the speed of any horse or greyhound at any time during a race conducted by an organization licensee;

(6) administer or conspire to administer any drug or medication to a horse or greyhound within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(7) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse or greyhound in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(8) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses or greyhounds in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

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

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

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

(12) influence or attempt to influence any member, employee or appointee of the commission, by the payment or promise of payment of money or other valuable consideration, in the performance of any official duty of that member, employee or appointee;

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

(14) commit any of the following acts with respect to the prior racing record, pedigree, identity or ownership of a registered horse or greyhound in any matter related to the breeding, buying, selling or racing of the animal: (A) Falsify, conceal or cover up, by any trick, scheme or device, a material fact; (B) make any false, fictitious or fraudulent statement or representation; or (C) make or use any false writing or document knowing that it contains any false, fictitious or fraudulent statement or entry; or

(15) pass or attempt to pass, cash or attempt to cash any altered or forged parimutuel ticket knowing it to have been altered or forged.

~~(i)~~ (j) No person less than 18 years of age shall purchase a parimutuel ticket or an interest in such a ticket. Any person violating this subsection shall be subject to adjudication as a juvenile offender pursuant to the Kansas juvenile offender code.

~~(j)~~ (k) Possession of any device described in subsection ~~(h)~~(5) (i)(5) by anyone within the confines of a racetrack facility shall be prima facie evidence of intent to use such device.

Sec. 2. K.S.A. 1988 Supp. 38-1502 is hereby amended to read as follows: 38-1502. As used in this code, unless the context otherwise indicates:

(a) "Child in need of care" means a person less than 18 years of age who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living

parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-715, 41-2721 or subsection ~~(i)~~ (j) of K.S.A. ~~1987~~ 1988 Supp. 74-8810, and amendments thereto, does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian; or

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

(b) "Physical, mental or emotional abuse or neglect" means the infliction of physical, mental or emotional injury or the causing of a deterioration of a child and may include, but shall not be limited to, failing to maintain reasonable care and treatment, negligent treatment or maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 38-1513 and amendments thereto.

(c) "Sexual abuse" means any act committed with a child which is described in article 35, chapter 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or 21-3603, and amendments thereto, regardless of the age of the child.

(d) "Parent," when used in relation to a child or children, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the child.

(e) "Interested party" means the state, the petitioner, the child, any parent and any person found to be an interested party pursuant to K.S.A. 38-1541 and amendments thereto.

(f) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(g) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(h) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for the care of children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(i) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which, if in a city or county jail, must be in quarters separate from adult prisoners.

(j) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(k) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the

facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility, other than a juvenile detention facility, shall be in a city or county jail.

(l) "Ward of the court" means a child over whom the court has acquired jurisdiction by the filing of a petition pursuant to this code and who continues subject to that jurisdiction until the petition is dismissed or the child is discharged as provided in K.S.A. 38-1503 and amendments thereto.

(m) "Custody," whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(n) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(o) "Secretary" means the secretary of social and rehabilitation services.

(p) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(q) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-1505a and amendments thereto, in a proceeding pursuant to this code.

(r) "Multidisciplinary team" means a group of persons, appointed by the court or by the state department of social and rehabilitation services under K.S.A. 1988 Supp. 38-1523a and amendments thereto, which has knowledge of the circumstances of a child in need of care.

Sec. 3. K.S.A. 1988 Supp. 38-1602 is hereby amended to read as follows: 38-1602. (a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 41-715, 41-2721 or subsection ~~(i)~~ (j) of K.S.A. ~~1987~~ 1988 Supp. 74-8810, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense in violation of chapter 8 of the Kansas Statutes Annotated or any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated;

(3) a person 16 years of age or over who is charged with a felony or with more than one offense of which one or more is a felony after having been adjudicated in two separate prior juvenile proceedings as having committed an act which would constitute a felony if committed by an adult and the adjudications occurred prior to the date of the commission of the new act charged;

(4) a person who has been prosecuted as an adult by reason of subsection (b)(3) and whose prosecution results in conviction of a crime;

(5) a person whose prosecution as an adult is authorized pursuant to K.S.A. 38-1636 and amendments thereto; or

(6) a person who has been convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto.

(c) "Parent," when used in relation to a juvenile or a juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the juvenile.

(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) "Youth residential facility" means any home, foster home or structure which provides ~~twenty-four-hour-a-day~~ 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which, if in a city or county jail, must be in quarters separate from adult prisoners.

(g) "State youth center" means a facility operated by the secretary for juvenile offenders.

(h) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(i) "Secretary" means the secretary of social and rehabilitation services.

Sec. 4. K.S.A. 1988 Supp. 38-1502, 38-1602 and 74-8810 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

March 28, 1989

Sec. 2. K.S.A. 1988 Supp. 74-8810 is hereby amended to read as follows: 74-8810. (f) It is a class A misdemeanor for any employee of an organization licensee, employed in the racing department at a racetrack owned or operated by the licensee, to place a wager on an entry in a horse or greyhound race conducted by such licensee. It is also a Class A misdemeanor for any such employee to place a wager on a race at any other racetrack owned or managed by the organization licensee, or by the same facility owner or facility manager licensee which owns and manages the racetrack operated by the organization licensee which employs the employee. Such prohibition shall not be construed as applying to other employees, officers or directors of an organization licensee, facility manager licensee or facility owner licensee having no day-to-day responsibility for supervision of the conduct of the races or to the spouses, children or relatives of any employee of a licensee who are making wagers on their own behalf.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 3
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*There is no attachment #4
for 3/21/89*

(15) Agricultural land owned or leased by a corporation operating a swine confinement facility on such agricultural land if (a) the majority of voting shares of such corporation are directly or indirectly owned or controlled by persons who are citizens of the United States, (b) the swine confinement facility is operated for the main purpose of developing, producing, raising, and selling breeding swine which, through a process of selective breeding and genetic improvement carried on by such corporation, possess characteristics relating to the improved performance of swine herds of farmers and livestock raisers, and

- C. In each calendar year, the dollar value of sales of breeding swine produced or grown out on such agricultural land shall be at least 20% of the dollar value of all swine produced or grown out on such land; and
- D. the average price for sales of breeding swine is at least equal to or higher than twice the Omaha hog slaughter market price which is prevailing at the time of the sale of such breeding swine.

~~For purposes of C & D the value for sales price shall be determined at the time the swine is sold or removed from such land.~~

HOUSE RESOLUTION No. 6040

By Representatives Barkis, Adam, Allen, Amos, Aylward, Baker, Barr, Blumenthal, Borum, Bowden, Braden, Brady, Branson, Brown, Campbell, Cates, Chronister, Cribbs, Crowell, Dean, Dillon, Douville, Eckert, Empson, Ensminger, Everhart, Flottman, Foster, Francisco, Freeman, Fry, Fuller, Gjerstad, Gomez, Graeber, Green, Gregory, Gross, Hamm, Harder, Heinemann, Hensley, Hochhauser, Hoy, Hurt, Jenkins, Johnson, Jones, Justice, King, Kline, Lacey, Lane, Larkin, Lawrence, Long, Lowther, Lynch, McClure, Mead, D. Miller, R.D. Miller, R.H. Miller, Mollenkamp, Moomaw, Patrick, Peterson, Pottorff, Ramirez, Reardon, Reinert, Reinhardt, Rezac, Roe, Roenbaugh, Roper, Roy, Russell, Sader, Samuelson, Sawyer, Schauf, Scott, Sebelius, Shallenburger, Shore, Shriver, Shumway, Smith, Snowbarger, Solbach, Spaniol, Sughrue, Sutter, Teagarden, Turnbaugh, Turnquist, Vancrum, Wagon, Webb, Weimer, Wells, Whiteman, Wiard, Williams and Wisdom

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A RESOLUTION decrying the actions of the Ayatollah Ruhollah Khomeini, the leader of Iran, for his insupportable threats against the life of author, Salman Rushdie, and reaffirming our support for the basic rights outlined and guaranteed us by the First Amendment of the Constitution of the United States and ~~the Eleventh Amendment~~ of the Constitution of the state of Kansas. Section 11 of the Bill of Rights

WHEREAS, The First Amendment reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the government for a redress of grievances"; and

WHEREAS, ~~The Eleventh Amendment~~ reads, "The liberty of the press shall be inviolate; and all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such rights; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted"; and

WHEREAS, Kansans cherish our constitutional rights, believe

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 86
3/31/89

them to be the foundations of a free society, and reject and abhor any threats against such rights; and

WHEREAS, The death threat by the Ayatollah Khomeini against the author, Salman Rushdie, constitutes ~~such a threat~~ a threat against such constitutional rights because of its ~~potential~~ chilling effect on the free exercise of the right of freedom of speech; and

WHEREAS, ~~While the people of Kansas respect the Islamic religion and fervently endorse the freedom of and the tolerance of religion, they insist that no book nor other writing should be suppressed for its failure to embrace Islam or any other religion,~~ and

WHEREAS, The written word is in all respects more fervently to be desired than the doubled fist; and

WHEREAS, Inciting any citizen of the world to do murder upon any other citizen of the world debases human beings to the level of violence and only deepens the pool of blood in which the innocent now struggle: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we deplore and reject any threat, by the Ayatollah or by any other person, the effect of which may cause us to relinquish any of our hard-won and sacred constitutional rights; and

Be it further resolved: That we urge all those who write, all those who publish and all who sell books and other printed material to resist any threats of violence, here or abroad, that threaten our basic constitutional rights; and

Be it further resolved: That we urge all local, state and federal elected and appointed officials to do everything in their power to protect these rights; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the President of the United States of America, the Governor of Kansas, the Iranian Embassy, the Kansas Association of Broadcasters, the Kansas Association of School Librarians, the Kansas Press Association and the Secretary-General of the United Nations.

offer to the Kansas Islamic community sympathy and support for the peaceful and nonviolent means they have chosen to protest against that which they have deemed to be an irresponsible attack against their religion; and

WHEREAS, The people of Kansas respect and fervently endorse freedom of and tolerance of religions, and they insist that no written expressions of thought be suppressed for support of a religion, nor for a failure to embrace a religion but do urge all who are citizens of the United States and Kansas, or who benefit from the constitutional right to freedom of expression accorded to such citizens, to understand the responsibility of such rights and urge sensitivity to those who may be deeply and personally affected by the ideas and sentiments contained in all forms of free expression