

Approved _____

March 15, 1990 Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

1:36 ~~am~~ p.m. on February 27, 1990 in room 526-S of the Capitol.

All members were present except:

Representatives Jenkins - Excused
King
Peterson

Representatives Roy
Wagnon

Committee staff present:

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

Conferees appearing before the committee:

Ramon Powers, Executive Director, Kansas Historical Society
Dr. Harry Anthony, Chairman, Kansas Racing Commission (KRC)
Representative Elizabeth Baker
Matt Lynch, Judicial Council
Reverend Richard Taylor, Kansans for Life at Its Best

Representative Jones moved to approve minutes of the February 12 and February 13, 1990 meetings of the committee. The motion was seconded by Representative Bryant and adopted by the committee.

Chairman Barr appointed the following subcommittee on Sub. SB 286:

Representative J. C. Long, Chairman
Representative Jenkins, Member
Representative Jones, Member

Ramon Powers explained there are people who desire that Old South Main at Osawatimie State Hospital be preserved. The legislature has appropriated money to SRS for demolition of the building. Dr. Powers called it a legislative matter since the funds for demolition had been appropriated. He requested introduction of a bill to preserve the building then to be left to the legislature for a decision.

Dr. Anthony requested introduction of permissive legislation for simulcasting. Authority to approve or deny simulcasting would rest solely with the KRC, Attachment No. 1. Attachment No. 1A is a motion, passed unanimously by the KRC and Attachment No. 1B is the proposed bill draft.

Committee discussion:

1. Dr. Anthony stated that since the meetings of the Interim Committee on Federal and State Affairs/Governmental Organization, the KRC has studied simulcasting's history in other states, feels it understands it, therefore the unanimous recommendation by the KRC. The KRC vote was taken February 9th though simulcasting had been studied "for some time". The KRC would share its knowledge if a bill were introduced.
2. The KRC would like to present simulcasting to the industry as well as totally administer it.
3. Dr. Anthony was unable to respond to whether simulcasting was mentioned to the public prior to the vote authorizing parimutuel in Kansas.
4. In response to a member, Dr. Anthony stated dog breeders had not indicated an interest in simulcasting at this time. The KRC has had limited discussion on simulcasting of dog races but has taken no action. Dr. Anthony was unable to answer whether other states simulcast dog races.
5. Simulcasting would be of identified races on certain dates. Dr. Anthony stated he did not believe with the location of the equine tracks there would be interference with dog races.
6. Racing dates at Eureka are protected from conflict with Wichita Greyhound Park (WGP). Dr. Anthony stated he did not feel races at WGP would interfere with the program at the Woodlands.

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7. Out of state races simulcast into Kansas would be those of national interest such as the Kentucky Derby. Races at the track are scheduled around a simulcast to avoid conflict with the local races.
8. Federal law currently protects part of the purse for horse races that are simulcast. There is a current effort to afford the same protection to dog races but until that time, dog breeders and trainers are not interested in participating.

Representative Blumenthal moved to introduce the bill, seconded by Representative Roper. The motion was adopted.

Representative Cates moved to introduce the bill requested by Dr. Powers, seconded by Representative Sughrue. Committee discussion noted the appropriation for demolition funds and the fact there is a bill in the senate. Representatives Cates and Sughrue withdrew the motion and second.

HB 2902

Representative Baker explained the bill would provide that the grant or denial of original organization licenses be subject to the Kansas Administrative Procedures Act (KAPA), Attachment No. 2.

Matt Lynch explained the special interim committee requested the Judicial Council review certain issues relating to the intentions of KAPA in relation to the Parimutuel Act, Attachment No. 3.

Committee discussion:

1. re: Proceedings begun on grant or denial of a license prior to July 1, 1990, Mr. Lynch asked a technical question, would they become subject to KAPA or remain subject to current procedure (p. 12, lines 19-20)? The Judicial Council recommended staying with the procedure in effect at the time of application.
2. Chairman Barr explained there was a minority report from the interim committee and the bill is a result of that report. There would be no effect on licenses granted or in process.
3. The other commission subject to KAPA is the KCC. Currently, the KRC has no statutory procedure.
4. Janet Chubb, Assistant Attorney General, KRC, was asked if there would be any effect on actions taken by the KRC. She explained the KRC had not expressed an opinion on the bill. Though it would change the procedure, it should provide no problem. She expressed a need for further study of the effective date.
5. Ms. Chubb explained there is one pending proceeding. If something were to happen to an original license, there could be another proceeding. Original license is not defined but the KRC has considered it to be the license(s) issued in 1989.
6. There is nothing to prevent the KRC from voluntarily putting itself under KAPA.
7. If there were any change regarding the grant or denial of an original organization license, the KRC couldn't voluntarily put it under KAPA because of current statute. KAPA would apply in the event of the disciplining of an original organization licensee.
8. Any change made now in the law would not affect a lawsuit currently before the Kansas Supreme Court concerning a license issued in southeast Kansas. The organization licensee and the KRC are specifically named. Ms. Chubb explained that if the KRC wanted to accept a new application for a potential facility manager for the aforementioned track there is a question whether it would be a successive or an original license. She stated whether that definition is set is unclear. The only way the KRC can consider a facility manager is if it has a contract with an organization licensee. Currently, only the concessionaire's license is subject to KAPA.
9. Current law is very clear that if an original organization licensee could not continue, there could not be a transfer of the license.
10. There are many grounds for revocation of an organization license. It is the organizations which receive net profit, not the organization licensee, which must maintain the 501(c)(3) status.

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11. There is no clear definition for original organization license but the KRC has interpreted it to be the licenses originally granted for the Kansas racetracks though it has not formally stated same. The definition becomes important anytime it is a qualifier to a sentence stating whether or not KAPA applies. Ms. Chubb was asked if the KRC was concerned regarding the lack of definition and why it hadn't moved to clarify the definition. She responded that the KRC probably would be concerned but it is presently dealing with practically all original licensees.
12. Transfers of ownership concerning the facility owner and manager would not be covered by the bill. In the case of the Woodlands, Summer, 1989, it was considered an assignment with substantially the same percentage of ownership involved with the prospective transferee. The Pittsburg license has expired so it would be a new license.
13. Mr. Lynch was of the opinion the bill addresses the problem of original and subsequent licenses by reinstating KAPA.
14. Mr. Lynch questioned the language on page 3, lines 37-43 regarding the hearing and background disclosure of KBI information. He asserted it should be part of the record and the bill essentially makes it inaccessible to the court reviewing the KRC.
15. The bill would also permit decisions on suspension and revocation hearings to be based on secret information - not present status - this poses a risk that once a license is acquired the court would determine there is a property interest. The property interest would not be protected unless there was full due process protection which would probably involve disclosure (p. 8, lines 37-38; p. 12, sub. e; Section 3 (i)(1), pp. 15-16 and Section 4, (f), p. 18). These concern concessionaire licenses and the original grant or denial and subsequent revocation or suspension of licenses which are "lumped together".
16. At the state level, there is no other agency dealing with intelligence type information as provided to the KRC by the KBI. At the federal level intelligence information involves national security. re: The Supreme Court concluded affecting constitutional interest was not the issue but rather additional licenses. Consequently, it did not reach the question if the information had to be disclosed if it did affect constitutional interest which they would have once a license has been acquired. Suspension and revocation poses a different problem. Mr. Lynch contended the same result would not be achieved regarding existing licenses.
17. re: Intelligence information. Mr. Lynch referred to the statute where it read "the commission may receive" intelligence information and stated it doesn't state what authority the KRC has to acquire it. He explained his interpretation of the statute to be that what is termed criminal background information extends beyond criminal intelligence information. He recommended that whatever determination was made concerning the amount of criminal intelligence received by the KRC, it should be compatible with KAPA. His opinion was that if the information were not used in the issuance of an original license, it could not be used in a revocation.
18. Direct appeal to the Supreme Court probably shortened the appeal process by one year.

There were no opponents to the bill.

HB 2903

Representative Baker explained the intent of the bill, Attachment No. 4.

Committee discussion:

1. Chairman Barr explained the definition for charitable or community service organizations was used to assure a legitimate non-profit organization and the five years was arbitrary. The intent was to assure a true non-profit organization would be running the operation - consistent with original legislative intent.

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2. How the language in Section 8, p. 3 would affect a future fair association was discussed. Staff advised fair associations may need to be exempted. One of the bill's authors explained the definition was to make clear the intention of "bona fide" non-profit used in the Constitution.

Reverend Taylor supported the proposal that parimutuel was intended to be run by a non-profit organization, that is non-profit in the generally accepted tradition of non-profit, Attachment No. 5. He suggested the problem could be remedied with another constitutional amendment on which the people would vote. Staff referred to the summary of bills it provided and noted there are some provisions noted which may of particular interest to the committee, Attachment No. 6. Chairman Barr suggested the committee have the summary at its disposal as the bills are discussed.

There were no opponents to the bill.

Dan Hamer, Executive Director of the Kansas Racing Commission presented the occupation license application form discussed at the February 26, 1990 meeting, Attachment No. 7. Workers compensation is covered on the form.

The meeting adjourned at 2:53 p.m. The next meeting of the committee is scheduled for March 12, 1990, 1:30 p.m. in Room 526-S.

Request for Legislation

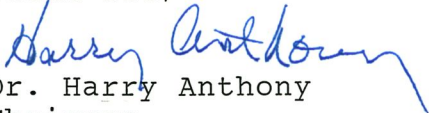
To: House Federal & State Affairs Committee

From: Dr. Harry Anthony, Chairman
Kansas Racing Commission

I respectfully request the introduction of permissive legislation for simulcasting subject to the authority to approve or deny simulcasting to rest solely with the Kansas Racing Commission.

Attached is a copy of a motion passed unanimously by the Kansas Racing Commission and a copy of draft legislation being requested.

Thank You,


Dr. Harry Anthony
Chairman,
Kansas Racing Commission

From: Frances Snell

Executive Secretary

Date: February 19, 1990

RE: simulcast motion

The following action regarding simulcasting was taken during the February 9, 1990 commission meeting:

MOTION: Commissioner Cantwell (Schroeder) moved that the commission support the introduction of permissive legislation for simulcasting subject to the authority to approve or deny simulcasting for particular licensees to rest solely with the commission. The motion carried unanimously.

LEGISLATION CONCERNING
PARIMUTUEL HORSE RACING; PROVIDING FOR
PARIMUTUEL WAGERING ON CERTAIN SIMULCAST RACES

AN ACT concerning horse racing and parimutuel wagering thereon; providing for parimutuel wagering on simulcast races.

WHEREAS, the racing, breeding and parimutuel wagering industry is an important sector of the agricultural economy of this state and is providing substantial revenue for state and local governments and employing many residents of the state; and

WHEREAS, the simultaneous telecast of live audio and visual signals of horse races on which parimutuel betting is permitted holds the potential to strengthen and further these economic contributions and can promote the overall growth of the industry, resulting in additional revenue for the support of organization licensees, facility owner and manager licensees and all persons interested in and benefitted by the parimutuel wagering industry, and is in the best interest of the state; and

WHEREAS, permitting parimutuel wagering on horse races conducted at track facilities outside this state holds the potential of increasing purses for the owners and trainers of various horse breeds in the racing industry within this state and improving the breed programs within this state; and

WHEREAS, the legislature intends to authorize the holders of organization or facility owner licensees, or both, for horse racing in this state to simulcast live audio and visual signals of horse races and parimutuel wagering thereon subject to the requirements of the law; and

WHEREAS, the Kansas Racing Commission is an administrative body created under K.S.A. 74-8803 and 8804 with duties, in part, to allocate race meeting dates, racing days, hours and schedules to licensees and generally review and approve racing parimutual activities in the state.

NOW, THEREFORE,

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

Section 1. As used in this Act, unless the context otherwise requires:

- (a) "Commission" means the Kansas Racing Commission;
- (b) "Sending track" means any track from which a simulcast originates;
- (c) "Simulcast" means the telecast of live audio and visual signals of horse races for the purpose of parimutuel wagering thereon;
- (d) "Simulcast facility" means any racing facility owned or operated by a horse racing licensee which is licensed under this Act to receive and display simulcasts of live horse races for parimutuel wagering purposes;

Section 2. Any organization licensee or facility owner licensee owning or operating a race track and issued a license or licenses under K.S.A. 1988 Supp. 74-8813 through 74-8815, and amendments thereto, permitting the conduct of at least one live horse race meet during each calendar year may apply to the commission for a simulcast facility license. The commission may authorize an organization licensee or facility owner licensee, or both, to accept wagers on the results of (1) out-of-state graded stakes horse races (no gross purse restriction), or (2) other horse races having a gross purse of One Hundred Thousand Dollars (\$100,000.00) or more, or (3) any other race(s) approved by the Commission. If the race track is owned by a facility owner licensee and live race meets are conducted by an organization licensee, both licensees must join in such application. An application for such license shall be in such form as prescribed by the commission and shall contain such information as the commission shall reasonably require. Subject to any limitations established in the absolute discretion of the commission, any horse racing licensee issued a simulcast facility license may display a simulcast of horse races and may accept parimutuel wagers upon such simulcast races. A sending track need not have a license to originate simulcast broadcasts, but any simulcasting agreement which it shall enter with the organization licensee and/or facility owner licensee in this state shall be subject to the approval of the commission. Any simulcast license

authorized hereunder and issued by the commission shall be subject to the following conditions:

- (a) The license issuance must comply with federal laws including but not limited to Chapter 57 of Title 15 of the United States Code; and
- (b) Display of simulcasts and wagering thereon shall be offered only within the horse racing facility, or if the simulcast facility licensee(s) hold(s) dual horse and greyhound racing licenses under K.S.A. 74-8813 or 15, then display of the simulcasts and wagering thereon may be offered either within the horse racing facility or the greyhound racing facility of the licensee(s), and in any case, wagering shall only occur within thirty-six (36) hours prior to the running of the out-of-state race.

Section 3.

- (a) Except to the extent inconsistent with the intent of this Act, every licensee hereunder shall be subject to all appropriate provisions of the Kansas Parimutuel Racing Act relating to the conduct of race meetings.
- (b) Wagers on out-of-state races conducted pursuant to the provisions of this Act shall be placed in a separate parimutuel pool or pools.

Section 4. Each organization licensee accepting wagers on out-of-state races shall take out (deduct) a percentage of the amount handled which is equal to the percentage deducted from the amount handled by the organization licensee in parimutuel pools at the race meeting held by the organization licensee.

Section 5. Each organization licensee shall pay to the state a share of the take out from the out-of-state simulcast races which share shall be determined at the same rate applicable to the races of the racing program of the organization licensee for the day on which the out-of-state races are offered.

Section 6. Breakage and unclaimed ticket proceeds shall be distributed in a manner applicable to the races of the racing program of the organization licensee for the day on which the out-of-state races are offered.

Section 7. The amount remaining after the take out pursuant to the provisions of Section 4 of this Act, after payment of the state share pursuant to Section 5 of this Act and after the contractual payment, if any, to the out-of-state host racing organization, shall be distributed as follows:

- (a) Fifty percent (50%) to the organization licensee; and
- (b) Fifty percent (50%) to the organization licensee to be distributed in the horse purses at the then present horse race meeting or, if the simulcast out-of-state horse race(s) is (are) accepted at a time when horse races are not being offered by the organization licensee, then the 50% shall be held by the organization licensee and distributed in the horse purses at the organization licensee's next meeting at which horses are offered for racing.

Section 8. Any horse race run at any race track licensed by the commission may be televised to another race track licensed by the commission or may be televised out-of-state. Parimutuel wagering may be permitted on such races at any other licensed horse track within the state, or at any race track or other entity in another state or country. A written application to televise a race shall contain the details of such race, or races, the agreements and contracts, and shall be submitted to the Commission for its approval at least three (3) days prior to the racing event. Such agreement shall comply with all applicable laws of the United States and the laws of this state.

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ELIZABETH BAKER
 REPRESENTATIVE, EIGHTY-SECOND DISTRICT
 SEDGWICK COUNTY
 601 HONEYBROOK LANE
 DERBY, KANSAS 67037



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 CHAIRMAN: ECONOMIC DEVELOPMENT
 MEMBER: ELECTIONS
 JOINT COMMITTEE ON
 ECONOMIC DEVELOPMENT
 LOCAL GOVERNMENT

TO: House Committee on Federal and State Affairs

FROM: Representative Elizabeth Baker

DATE: February 27, 1990

RE: HB 2902 - Proceedings on racing licenses subject to administrative procedures act.

HB 2902 provides that the grant or denial of original organization licenses after July 1, 1990 would be subject to the Kansas Administrative Procedures Act (KAPA). This issue surfaced as an amendment to the Act in 1988. Unfortunately committee minutes do not say who requested the bill, but subsequent testimony by Jimmy Grenz former Executive Director of the Racing Commission stated that the commission had not requested the bill. After a hearing where the Commission's position was stated as ambivalent and Sunflower Racing Inc. supported the bill, it was referred to a Subcommittee of Representative Ramirez, Representative Sprague and chaired by Representative Roy. They recommended a substitute bill that amended the Racing Act rather than KAPA. This bill also contained a provision for limited and expedited judicial review by the State Supreme Court of Commission decisions to issue or deny original organization licenses. The bill exempted the grant or denial of an original organization license from the KAPA. The substitute bill passed both the House and Senate without further amendment.

The fundamental reason for support of this provision was to get Kansas racing "up and running." It was stated by Commissioner Schroeder in the 1989 interim that application of KAPA would have delayed the beginning of track construction for approximately three years.

It is the contention of the sponsors of this proposed legislation that it was grossly unjust, unfair that due process was not given those applicants who were denied licensure. Certain

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applicants who were denied licensure testified during the 1989 interim that they had spent upwards of half a million dollars on their original application. Because of the preparation and expense necessary for applicants, for the legislature to disallow full due process is untenable.

The committee requested that the Judicial Council review the KAPA issue. That report has just been completed. I am hopeful it will help resolve this situation and that this committee will provide any future applicants who were denied licensure full due process. I urge your support of HB 2902.

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REPORT OF THE ADMINISTRATIVE PROCEDURE ADVISORY COMMITTEE
TO THE JUDICIAL COUNCIL ON EXEMPTIONS TO THE
KANSAS ADMINISTRATIVE PROCEDURE ACT
INCLUDED IN THE PARIMUTUEL RACING ACT

In September of 1989, the Legislative Coordinating Council approved a request by the Special Committee on Federal and State Affairs/Governmental Organization to seek assistance from the Judicial Council on the issue of exemptions to the Kansas Administrative Procedure Act (KAPA) currently included in the Parimutuel Racing Act. As originally enacted, the Racing Act made denial of an organization, facility manager or facility owner license subject to the Administrative Procedure Act. 1988 Sub. for House Bill 2776 deleted these provisions and substituted provisions to the effect that the grant or denial of original organization, facility manager and facility owner licenses are not subject to KAPA. The legislation also provided for direct appeal of such decisions by the Racing Commission to the Supreme Court and limited the Court's scope of review to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion.

The Judicial Council assigned the requested study to the Administrative Procedure Advisory Committee. The advisory committee was largely responsible for the development of the Kansas Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of Agency Actions. These acts were originally adopted by the legislature in 1984, although KAPA did not become effective until July 1, 1985.

In order to avoid any appearance of conflict of interest, advisory committee members who have or have had any relationships with persons involved in proceedings before the Racing Commission agreed not to serve on the advisory committee for purposes of this study.

The advisory committee was provided with transcripts of the hearings held before the special committee on August 3, 16 and 17 and with written testimony submitted to the special committee regarding the application of KAPA to proceedings before the Racing Commission. The special committee asked to have the following specific questions addressed:

If KAPA and full judicial review procedures were available, how much time would be added to the original licensure process including all avenues of appeal?

If the appropriate sections of the Act were amended to restore coverage by KAPA at this time, what impact would that action have on licenses already granted?

If a current owner or manager licensee relinquishes the license and another owner or manager license is granted by the Commission to operate the same track for the same organization licensee, would the second license be an "original" license?

Is there any conflict in giving the Commission broad discretion in granting licenses and application of KAPA to the process?

Would application of KAPA to the original grant or denial of a license require, prior to granting the license, a formal hearing before the Racing Commission during which there would be opportunity for examination and cross examination?

Would application of KAPA to the grant or denial of an original license have any impact on release to the public of background intelligence information gathered about license applicants?

Based on the transcripts of the hearings before the special committee, the advisory committee determined to invite certain knowledgeable persons to appear and testify for the purpose of assisting the advisory committee in its study of this subject matter. The advisory committee asked that such persons respond to the specific questions raised by the special committee. Commissioner Alfred Schroeder, Professor David Ryan, Assistant Attorney General Rita Noll and David Johnson, then director of the Kansas Bureau of Investigation, personally appeared before the advisory committee. Written responses were received from Steven Montgomery from the Topeka law firm of Alderson, Alderson and Montgomery and Charles McAtee, an attorney in Topeka.

In addition to the responses of the invited conferees and the transcripts of the hearings before the special committee, the advisory committee reviewed the provisions of the Parimutuel Racing Act, 1988 Sub. for HB 2776, the opinion in Kansas Racing Management, Inc. v. Kansas Racing Commission, 244 Kan. 343 (1989), the original license orders rendered by the Racing Commission in the Kansas City and Southeast Kansas areas, the briefs from the original appeal of the licensing order in Southeast Kansas (the appeal was subsequently dismissed), opinions of the Attorney General relating to original licenses of the Racing Commission and the report of the special committee on proposal No. 28 - Parimutuel Wagering (including the minority report).

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It has been suggested to the advisory committee that some of the specific questions posed by the special committee may arguably call for opinions on the part of the advisory committee which are of little practical consequence based on the assumption all original licenses in Kansas have been granted. This may turn out to be the case. However, there appears to be the theoretical possibility that the Racing Commission may determine there is a new market area for which applications for original licenses would be accepted. There is also the situation in southeast Kansas where lawsuits are pending which seek to have all the original licenses viewed as a "package" and declared invalid for failure to meet "condition precedents" contained in the order granting the licenses. If this view prevails, it appears the potential for competing applicants for such licenses would again exist. At the time of this report, it is the understanding of the advisory committee that the existing organization licensee in southeast Kansas has been given a certain amount of time to come up with a new facility manager and facility owner. Should they fail in this regard, their organization license may expire or be revoked and there would be the potential for competing applicants for such licenses. However unlikely, there is always the possibility that an organization license in a given market area could be revoked.

It is the basic conclusion of the advisory committee that the hearing procedures of KAPA should be the process for the grant or denial of organization, facility manager and facility owner licenses by the Racing Commission and that the opportunity

for cross-examination should be available in regard to specific factual issues. The responses of the advisory committee to the specific questions posed by the special committee follow.

If KAPA and full judicial review procedures were available, how much time would be added to the original licensure process including all avenues of appeal?

The advisory committee cannot state a specific amount of time which would have been required at the administrative level had original licensure proceedings of the Racing Commission been subject to the Administrative Procedure Act. In his response to this question, the Attorney General noted his office is experienced in handling KAPA proceedings and has found that the length of time to complete the process depends upon the facts and circumstances of each individual case. The advisory committee concurs in this statement and would add that the time required is significantly affected by the skill of the presiding officer for the proceedings and of the attorneys for the parties. Although the advisory committee is unable to state a definite amount of time that would be required in the case of original licensure proceedings before the Racing Commission, the experience of committee members indicates state agencies can conduct hearings on complicated matters involving numerous parties (such as rate proceedings before the Corporation Commission) in a matter of months. The advisory committee would also note that timelines contained in KAPA for various stages of the process would not appear to adversely impact the time required. Furthermore, KAPA recognizes the legislature may prescribe additional or different timelines for particular agency hearings.

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As to the time required for judicial review, the Judicial Review Act provides for the appeal of agency actions to the district court unless otherwise provided by law. [K.S.A. 1988 Supp. 77-609(a)] As to the types of original licensure actions in question, the Racing Act provides for a direct appeal to the Supreme Court. The advisory committee heard estimates that an appeal at the district court level could take anywhere from 1 to 2 years. Whether the original appeal is to the district court, Court of Appeals or the Supreme Court is, for the most part, a separate question from whether or not KAPA should apply at the administrative level. However, the application of KAPA at the administrative level would promote the development of an adequate and readily ascertainable record for purposes of judicial review at whatever level such review is provided. In the event the legislature determines that certain licensure actions of the Racing Commission should continue to be expedited, the committee discussed whether providing for direct appeal to the Court of Appeals would aid in expediting such appeals. However, in this regard it should be noted the direct appeal to the Supreme Court of the original license order in the Kansas City area was processed in slightly over 6 months.

If those sections were amended to restore coverage by KAPA at this time, what impact would that action have on licenses already granted?

With one exception, the consensus of the conferees appearing before the advisory committee was that such amendments would have no impact on licenses already granted. If the legislature

determines to restore coverage by KAPA, the advisory committee recommends that legislation doing so clearly indicate it is to have prospective application only.

If a current owner or manager licensee relinquishes the license and another owner or manager license is granted by the Commission to operate the same track for the same organization licensee, would the second license be an "original" license?

It is the conclusion of the advisory committee that Racing Commission action on such a second license would not be subject to KAPA, regardless of whether or not the second license is denominated as an "original" license. K.S.A. 1988 Supp. 77-503(a) states KAPA "applies only to the extent that other statutes expressly provide that the provisions of this act govern proceedings under those statutes." The Racing Act contains express statements that KAPA does not apply to the grant or denial of certain original licenses and the Racing Act contains express statements that KAPA does apply to a refusal to renew, suspension or revocation of an organization, facility owner or facility manager license. However, there is no specific statute which expressly states KAPA applies to the scenario posed by this question.

The advisory committee recommends that a hearing under the Administrative Procedure Act should be the process followed by the Racing Commission in determining whether to grant or deny an organization, facility owner or facility manager license, regardless of whether such license is deemed an "original" or "second" license. Furthermore, provisions of the Racing Act and commission regulation K.A.R 112-3-18 require commission approval for

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certain acts involving the transfer or purchase of ownership or control of existing organization, facility manager and facility owner licenses. Such transactions involve specific factual issues similar to those raised in the grant or denial of a license and should likewise be subject to a hearing under the Administrative Procedure Act.

Is there any conflict in giving the Commission broad discretion in granting licenses and application of KAPA to the process?

The Racing Act provides the Commission may grant an organization license to an applicant if ". . . the commission finds that the issuance of a license would be within the best interests of horse and greyhound racing within this state from the standpoint of both the public interest and the horse or greyhound industry, as determined solely within the discretion of the commission, . . ." [K.S.A. 74-8813(e)] The grant or denial of an original organization, facility owner or facility manager license ". . . shall be a matter to be determined in the sole discretion of the commission . . ." [K.S.A. 74-8813(v) and 74-8815(m)]

It is the opinion of the advisory committee that there is not an inherent conflict in giving the Commission broad discretion in granting licenses and application of KAPA to the process. The contention was made before the advisory committee that in original licensure matters the Commission is making an administrative or policy decision as opposed to a quasi-judicial decision. Admittedly, what is in the best interests of horse and greyhound racing from the standpoint of both the public interest and the horse or greyhound industry involves general

fact and policy determinations which do not require a trial-type proceeding. However, there are specific, factual determinations which need to be made about particular applicants in determining whether or not they are qualified and in analyzing whether their licensure would promote the policies of the Commission.

The advisory committee agrees the Racing Commission should have broad discretion in determining what is in the best interests of horse and greyhound racing from the standpoint of both the public and the industry and whether licensure of a particular applicant promotes such interests. However, to the extent it is necessary to make specific, factual determinations about applicants and their proposals, it is the opinion of the advisory committee that it would be beneficial, particularly to the Racing Commission, to use the procedure best calculated to ascertain such facts. Many agencies make decisions affecting specific parties in which policy considerations are major components of such decisions. The setting of rates for a particular utility by the Corporation Commission is recognized as essentially a legislative-type decision. The fact that policy or legislative-type decisions are being made by agencies does not reduce the need to use a procedure designed to adduce specific facts where such facts form part of the basis for the ultimate agency decision.

In the context of this question, the advisory committee also discussed the ostensibly different scope of review to be applied by the court in reviewing original licensure decisions of the Racing Commission. 1988 Sub. for HB 2776 amended the Racing Act

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to provide that, in the review of original licensure decisions, the scope of review shall be limited to whether the action of the Commission was arbitrary or capricious or constituted an abuse of discretion. [K.S.A. 1988 Supp. 74-8813(v) and 74-8815(1)] The typical scope of review under the judicial review act is set out in 77-621(c), which provides:

"(c) The court shall grant relief only if it determines any one or more of the following:

"(1) The agency action, or the statute or rule and regulation on which the agency action is based, is unconstitutional on its face or as applied;

"(2) the agency has acted beyond the jurisdiction conferred by any provision of law;

"(3) the agency has not decided an issue requiring resolution;

"(4) the agency has erroneously interpreted or applied the law;

"(5) the agency has engaged in an unlawful procedure or has failed to follow prescribed procedure;

"(6) the persons taking the agency action were improperly constituted as a decision-making body or subject to disqualification;

"(7) the agency action is based on a determination of fact, made or implied by the agency, that is not supported by evidence that is substantial when viewed in light of the record as a whole, which

includes the agency record for judicial review, supplemented by any additional evidence received by the court under this act; or

"(8) the agency action is otherwise unreasonable, arbitrary or capricious."

The Supreme Court discussed the applicable scope of review for original licensure decisions of the Racing Commission in Kansas Racing Management, Inc. at 365 as follows:

'Under our limited scope of review of the Commission's grant of a license, the arbitrary and capricious test relates to whether that particular action should have been taken or is justified, such as the reasonableness of the Commission's exercise of discretion in reaching the determination, or whether the agency's action was without foundation in fact. Pork Motel, Corp. v. Kansas Dept. of Health & Environment, 234 Kan. 374, 381, 673 P.2d 1126 (1983). Arbitrary or capricious conduct may be shown where an administrative order is not supported by substantial evidence. U.S.D. No. 461 v. Dice, 228 Kan. 40, 50, 612 P.2d 1203 (1980) (citing Neeley v. Board of Trustees, Policemen's & Firemen's Retirement System, 212 Kan. 137, Syl. ¶ 3, 510 P.2d 160 [1973]). "Substantial evidence" is evidence which possesses both relevance and substance, and which furnishes a substantial basis of fact from which the issues can be reasonably

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resolved. In re Petition of City of Shawnee for Annexation of Land, 236 Kan. 1, 21, 687 P.2d 603 (1984).'

The advisory committee doubts that the "limited" scope of review substituted by 1988 Sub. for HB 2776 is materially different from the otherwise applicable standards contained in 77-621(c). If the reviewing court had found the Racing Commission violated one of the omitted standards contained in 77-621(c), the advisory committee believes such a finding would have been deemed "arbitrary or capricious or an abuse of discretion." In any event, the advisory committee does not believe any of the usual standards contained in 77-621(c) are inappropriate for review of actions of the Racing Commission.

Would application of KAPA to the original grant or denial of a license require, prior to granting the license, a formal hearing before the racing commission during which there would be opportunity for examination and cross-examination?

The general consensus of the conferees appearing before the advisory committee was that application of KAPA would contemplate a hearing, prior to granting a license, during which there would be opportunity for examination and cross-examination. A "formal hearing", as opposed to "emergency proceedings", "summary proceedings" or a "conference hearing", would be the appropriate procedure under KAPA for the original grant or denial of such a license by the Commission. Examination and cross-examination are available during formal hearings. K.S.A. 1987 Supp. 77-523(b), as amended by L. 1988, ch. 356, §11.

The original language in the racing act concerning the relationship between KAPA and the grant or denial of organization, facility owner and facility manager licenses may be a source of some confusion on this subject. As originally enacted, the racing act stated "Denial of an organization license by the commission shall be in accordance with the Kansas administrative procedure act." [K.S.A. 1987 Supp. 74-8813(e)] Similarly, it stated "Denial of a facility owner license or facility manager license by the commission shall be in accordance with the Kansas administrative procedure act." [K.S.A. 1987 Supp. 74-8815(e)] 1988 Sub. for House Bill 2776 deleted these statements and added 74-8813(v) and 74-8815(1) to the effect the grant or denial of an original license is not under KAPA, such grant or denial to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one or more competing applicants without the necessity of a hearing on the denial of a license to each other competing applicant. The original language of the racing act may have indicated to some that each applicant was entitled to a separate hearing and that this right to a hearing might arise after the commission has determined to grant a license to another competing applicant.

The advisory committee recommends that the racing commission use the hearing procedures of KAPA as the process for the grant or denial of organization, facility manager and facility owner licenses. Where specific facts must be determined, cross-examination should be available. Where general fact and policy determinations are necessary, the opportunity for argument by the

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parties should be sufficient. The advisory committee would leave discretion in the racing commission to determine whether to hold separate hearings for each applicant, with intervention by competing applicants, or a consolidated hearing in which all competing applicants are named as parties. Cross-examination could be conducted by the commission and its staff and competing applicants. Apparently, questions were raised before the special committee concerning the ability of the commission and its staff to effectively evaluate applicants due to funding and staff limitations. The availability of competing applicants with the knowledge and incentive to cross-examine one another would appear to be of considerable benefit to the Racing Commission.

Would application of KAPA to the grant or denial of an original license have any impact on release to the public of background intelligence information gathered about license applicants?

The Racing Act was amended in 1988 by adding the following provisions to K.S.A. 1987 Supp. 74-8804:

"(n) The commission may receive from the Kansas bureau of investigation or other criminal justice agencies such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of licensees of and applicants for licensure by the commission. Disclosure or use of any such information received by the commission, or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the commission in a hearing held pursuant to this act.

"(o) The commission, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to receive and discuss information received by the commission pursuant to subsection (n) and to negotiate with licensees of or applicants for licensure by the commission regarding any such information."

The Kansas Supreme Court addressed these provisions and whether or not the Racing Commission's refusal to disclose the KBI background investigations violated the due process rights of license applicants in Kansas Racing Management, Inc. v. Kansas Racing Commission, 244 Kan. 343, 350 to 358 (1989).

In regard to the statutory issues, the court stated, "A plain reading of K.S.A. 1988 Supp. 74-8804(n) indicates legislative intent to make both receipt and disclosure of information contained in background reports of the law enforcement agencies obtained for the commission discretionary with the commission." Kansas Racing Management at 352. However, the court also concluded that enactment of the specific provisions in the Racing Act did not remove all restraints of the Open Records Act on the commission. At page 353 of the Kansas Racing Management decision, the court stated, "Subject to specified restrictions, disclosure of KBI investigative reports to racing license applicants is permitted both under K.S.A. 1988 Supp. 74-8804(n) and (o) and under the KORA." Apparently addressing the issue of disclosure to the public, the court further stated, "The commission may but is not required to disclose information contained in the law enforcement agency's report that it determines is in the public interest if disclosure of that information does not violate the provisions of K.S.A. 1988 Supp. 45-221(a)(10)(A)-(E) by: (1) interfering with prospective law enforcement actions; (2) exposing the identity of a confidential source or undercover

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agent; (3) revealing a confidential investigative technique or procedure not known by the applicant; or (4) endangering the life or safety of a person."

Having found that, statutorily, disclosure of background information to applicants is essentially discretionary with the Commission, the court also addressed whether the Commission's refusal to disclose the KBI background investigations to applicants violated the applicants' due process rights. The court found that the license applications did not create a protected property or liberty right in being awarded a license and, consequently, due process considerations did not apply.

The contention has been made that the application of the Administrative Procedure Act could result in the disclosure of background intelligence information to the public due to the following provisions contained in KAPA: (1) hearings are open to the public except where closed pursuant to a provision of law expressly authorizing closure [77-523 (f)]; (2) findings of fact, conclusions of law and policy reasons are required for all aspects of an order [77-526(c)]; (3) findings of fact must be based exclusively upon the evidence of record and on matters officially noticed [77-526(d)], and (4) the agency record must include evidence received or considered [77-532(b)(4)].

Although it dealt with trade secret or other confidential commercial information in a hearing before the Corporation Commission, the decision in Southwestern Bell Tel. Co. v. Kansas Corporation Commission, 6 Kan. App. 2d 444 (1981) appears to offer some guidance on this issue. The relevant Corporation

Commission statutes required specific findings of fact and conclusions of law in commission orders and that no person desiring to be present at a commission hearing could be denied admission. The court noted that the Open Meetings Act specifically authorized discussion of "confidential data relating to financial affairs or trade secrets of corporations" at closed or executive meetings and held the commission, in its discretion, was authorized to hold a closed meeting to examine such evidence. Similarly, the Open Meetings Act recognizes the authority of the Racing Commission to receive and discuss background intelligence information in closed or executive meeting under K.S.A. 1989 Supp. 74-8804. [K.S.A. 75-4319(b)(7)] In Southwestern Bell the Corporation Commission contended that if the documents in question were held to be confidential, the Commission could not comply with its legal obligation to make specific findings of material facts regarding the concealed evidence. The court held that the Corporation Commission's analysis was too broad. "There may be occasions when the commission can fulfill its duty to make specific findings only by referring to specific trade secret information. On other occasions, it may be sufficient to summarize the data or refer to it generally." Southwestern Bell, at 459. In its original licensure orders, the Racing Commission did refer generally to the KBI investigative reports in support of some of the Commission's determinations. It does not appear application of KAPA would necessarily require disclosure of background intelligence information to the public.

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Disclosure of such information to the applicants is arguably another matter. "As a general proposition, it is not proper for an administrative authority to base a decision of adjudicatory nature, or findings in support thereof, upon evidence or information outside the record, and in particular upon evidence obtained without the presence of and notice to the interested parties, and not made known to them prior to the decision." "Even though an administrative authority has statutory power to make independent investigations, it is improper for it to base a decision or findings upon facts so obtained, unless such evidence is introduced at a hearing or otherwise brought to the knowledge of interested parties prior to decision, with an opportunity to explain and rebut." 18 A.L.R. 2d 552, 555, 562.

The discretionary, policy aspect (best interest of horse and greyhound racing within this state from the standpoint of both the public interest and the industry) of the Commission's decision regarding original licenses here under consideration and the holding of the court that such decisions do not implicate constitutionally protected interests appear to make such decisions exceptions to the general propositions stated above. The present provisions of the Racing Act have been construed to make disclosure of background information to the applicants discretionary with the Commission; the proposal of the interim committee prohibits disclosure of such information except as necessary to members and employees of the Commission. On the other hand, a fair reading of KAPA indicates it is consistent with the above-stated general propositions and does not con-

template decisions based on information kept secret from the interested parties. Hearing procedures before a number of agencies contain specific exceptions or modifications to KAPA. The advisory committee recommends that the legislature specifically address the relationship of KAPA to the Racing Act in accordance with whatever policy decision the legislature makes in regard to disclosure of background information to license applicants.

In his response to the advisory committee on this issue, the Attorney General noted his initial thought that a procedure could be devised whereby a public record would be developed and a public hearing held involving information which can be released, reserving intelligence information for an executive session and confidential record. Upon further consideration, the Attorney General rejected such a compromise procedure based upon the possibility the public record would be misleading in that an applicant with the "poorest" public record could be awarded the license because of damaging information contained in a competing applicant's confidential report. While recognizing the validity of the Attorney General's position, it appears to the advisory committee that the compromise procedure he describes is essentially that which has been followed by the Racing Commission, except that rather than a "hearing" there was a public presentation and discussion combined with confidential proceedings. The only difference resulting from the fundamental recommendation of the advisory committee would be that actual, fact-finding

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procedures would be used where they do not conflict with the legislative determination regarding use of background information.

ELIZABETH BAKER
REPRESENTATIVE, EIGHTY-SECOND DISTRICT
SEDGWICK COUNTY
601 HONEYBROOK LANE
DERBY, KANSAS 67037



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: ECONOMIC DEVELOPMENT
MEMBER: ELECTIONS
JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT
LOCAL GOVERNMENT

TO: House Committee on Federal and State Affairs
FROM: Representative Elizabeth Baker
DATE: February 27, 1990
RE: HB 2903 - prohibits certain transactions between conducting parimutuel races and their employees or contractors.

One provision of HB 2903 is designed to ensure that organization licensees were not established for the sole purpose of operating a race track. In the 1989 Interim, Commissioner Schroeder stated that the definition of a bona fide nonprofit organization in the Kansas Parimutuel Racing Act refers only to how the corporation is organized and the requirement that benefits do not inure to a Member of the organization. The authors of this legislation believe that this was not the intent of the legislature who authored KPRA or the expectations of the voters of Kansas when they passed the constitutional amendment allowing pari-mutuel wagering.

This legislation says that the non profit organization must have been in existence for a least 5 years prior to applying for a license and that its primary purpose was for charitable or community service. The requirement would not apply to organizations that were licensed prior to the effective date of the act. I would urge the committee to consider the rationale for the choice the legislature made when enacting KPRA to allow only a bona fide non-profit organization to hold a racing license. Their intent was clear.

HB 2903 will make their intent a reality.

February 27, 1990
Hearing on House Bill 2903
House Federal & State Affairs Committee

Nonprofit racing
Rev. Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

Race track gambling was sold to Kansas voters with the assurance it would be nonprofit and would benefit charitable activities. Big time gambling promoters with tracks at Wichita and Kansas City are getting mighty rich off charity and nonprofit gambling.

We were told race track gambling would bring people to Kansas. It did! It brought those who exploit our citizens, those who trample over others in their lust for money, those full of greed, those who practice graft and political corruption.

Lines 18-21 on page 3 seems to be an attempt to correct part of this problem. But the only way to correct the problem is to submit another constitutional amendment. As Governor Hayden says in his TV property tax ads, "We must admit a mistake was made and let the people vote again."

Here is a CONCURRENT RESOLUTION that would permit parimutuel gambling only at tracks constructed, remodeled, owned and developed by nonprofit organizations, such organizations who have not contracted with any group, organization or corporation to construct, remodel, or develop such track. Voters thought this was the 1986 amendment.

Since 1971 I have heard the cry echo through these historic halls, "LET THE PEOPLE VOTE ON IT!" Were those lawmakers honest? Let us find out.

If people want big time dog track gambling, they will reject this amendment. If the people want small time horse track gambling at Eureka Downs, Hutchinson, and county fairs, they will approve this amendment. TRUST THE PEOPLE!

But some have said, what about all the money poured into construction of tracks at Wichita and Kansas City? Those _____ knew before they built their tracks that the people can take away at any time what they have permitted by a constitutional amendment.

If this amendment is approved, Wichita and Kansas City dog tracks could continue to run all the races they desire, sell all the food they can, provide all the entertainment that racing and food brings. They claim that is all they are doing now. So why should they care if this legalized criminal activity called gambling is no longer permitted at their tracks?

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 5
February 27, 1990

"As Attorney General, my concern has been with commercial gambling. The losses become more extreme. The likelihood of infiltration by organized crime will increase. I prefer keeping the law as it is. We've got a healthy state and I'm very pleased with it."

"I've a lot of friends who are in favor of parimutuel gambling, and I have a lot of friends who are not. Some of my good friends have horses. They raise them for racing purposes and are somewhat bewildered at my position on the parimutuel question. It is just that I see no positives in opening up the state to commercial gambling. I see a lot of negatives."

"We have very little problem with public corruption in Kansas. One of the reasons for that, for example, are the difficulties involved in opening liquor stores, in regulated private clubs, in the lack of commercial gambling. The cash flow that attracts so many problems just isn't here. And I'm glad."

"The thing other than organized crime, is the fact that there is always illegal off track betting and there are many stories of the drugging of horses, and about cheating in regard to the races. And then the regulation, and the problem of people who can't afford to gamble, and gamble too much. They hurt themselves and hurt their families. We have enough problems with bingo gambling."

"My main concern about commercialized gambling, particularly parimutuel betting, is the fact that I don't see any positives. All I see are negatives. I think we can continue to have a wonderful state and enjoy our wonderful people without those negatives."

"Every law is a moral issue and that is the business of government, to determine what is best."
-Attorney General Bob Stephan
WIBW-TV interview, March 5, 1983

A PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto limiting the operation or conduct of horse and dog racing and parimutuel wagering thereon.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

"§ 3d. Limitation on operation or conduct of horse and dog racing with parimutuel racing thereon. Notwithstanding the provisions of section 3b of article 15 of the constitution of the state of Kansas, the legislature may not permit the operation or conduct of horse and dog racing and parimutuel wagering thereon at any track except a track that is or has been constructed, remodeled, owned and developed by nonprofit organization as defined by law. No such nonprofit organization shall contract or shall have contracted with any group, organization or corporation to construct, remodel or develop such track."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement: This proposed amendment would authorize the legislature to permit racing with parimutuel wagering only at tracks constructed, remodeled, owned and developed by nonprofit organizations.

"A vote for the proposed amendment would allow the legislature to permit racing with parimutuel wagering only at tracks constructed, remodeled, owned and developed by nonprofit organizations.

"A vote against the proposed amendment would continue the current provision which does not restrict the tracks at which racing with parimutuel wagering may be conducted."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the senate and two-thirds of the members elected (or appointed) and qualified to the house of representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 1990 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

FOR OFFICE USE ONLY:

Lic. No. _____
 Date _____
 Lic. Fee _____
 FP Fee _____
 Lic/Year _____
 Cash \$ _____ Ck. No. _____
 FP/Year _____
 Track _____
 Clerk _____

OCCUPATION LICENSE APPLICATION

KANSAS RACING COMMISSION
 PROVIDING FALSE INFORMATION ON THIS APPLICATION
 MAY RESULT IN CRIMINAL PROSECUTION.

COMMISSION APPROVAL AND DATE:

Some types of licenses may require testing
 or interviewing prior to licensure.

KRC
 BADGE
 PHOTO

ARCI RULINGS:
 YES DATE _____
 NO CLERK _____

PLEASE PRINT IN INK OR TYPE. ANSWER ALL QUESTIONS. IF NOT APPLICABLE, SO STATE:

I hereby make Application for license as a _____ with the Kansas Racing Commission.

1. Legal Name _____
(Last) (First) (Middle) (Maiden)

2. Nickname or other name(s) used _____

Date of Birth		Social Security No.*		Driver's License No.		State	
Age	Sex	Weight	Height	Hair	Eyes	Race	

* Your social security number is requested pursuant to L. 1988, ch. 307, sec. 1 (3), and it will be used by the licensing clerk, law enforcement personnel and, upon request, the director of taxation. Disclosure is voluntary.

4. Permanent mailing address at which service of all papers may be made:

(Street Address or Box No.) (City) (State) (Zip)
 Current Address if different:

(Street Address or Box No.) (City) (State) (Zip)
 Home Phone No. () - Business Phone No. () -
AC Number AC Number

5. Vehicles: _____
Year + Make Lic/State Year + Make Lic/State

6. Place of Birth _____
(City) (County) (State) (Country)

7. Spouse's Name _____
(Last) (First) (Middle) (Maiden)

8. YES **Are you a U.S. Citizen? If "NO", provide (1) Alien Registration No. _____**
 NO **and (2) documentation of eligibility to be employed in the United States.**

9. Business other than Racing _____
(Name of Organization) (Address)

10. YES Have you ever been convicted of (1) a felony, **AND/OR (2) any law regarding gambling, controlled dangerous substances, or an act of violence?** If "YES" provide details below. Expunged records must be disclosed pursuant to K.S.A. 21-4619(f)(2)(d).
 NO

Date of Conviction	County	State	Offense (Nature of Conviction)	Sentence

11. YES Have you ever been, or are you presently licensed by any racing jurisdiction, including Kansas?
 NO If "YES", provide the following details.

State/Country	Year	Lic. Occupation	State/Country	Year	Lic. Occupation

12. YES Have you ever been ineligible for a license; had your license suspended or revoked; been found guilty of any rule infraction; or ejected from any race track by any racing official, racing organization, jurisdiction or commission? If the answer is "YES", provide the following details.
 NO

Date	State/Country	Nature of Violation	Suspension	Fine	Restored?

13. YES Has your spouse's racing license, if any, ever been suspended, denied or revoked in any racing jurisdiction, including Kansas? If "YES", provide the following details.
 NO

Date	State/Country	Nature of Violation	Suspension	Fine	Restored?

14. YES Will you be functioning as an **AUTHORIZED AGENT** in Kansas? If "YES", complete and attach **Form 104L**
 NO for each ownership entity you represent.

15. YES Are you currently licensed to practice Veterinary Medicine in Kansas? If "YES", provide Veterinary Medicine License No. _____
 NO
 YES Are you presently practicing Veterinary Medicine in Kansas?
 NO

NOTE: A KRC licensed Veterinarian **SHALL NOT** be licensed as an owner at the same time.

16. If applicant is under 18 years of age, provide signature of parent or legal guardian below. By signing, the parent or legal guardian (1) provides permission for licensure and (2) accepts full responsibility including financial responsibility, of such licensure:

Relationship to Applicant	Print Name
Signature of Parent or Legal Guardian	

17. Name of your employer at the racetrack. _____
 (If none, state "NONE".) _____
- | | | |
|--------------------------|------------------------------|---------------|
| Print Name | How Long?
() - | License Held? |
| Full Address of Employer | Telephone Number of Employer | |

I am the employer of the above named applicant and evidence of Workers' Compensation Insurance or other self-insurance coverage is attached hereto which provides evidence of security for liability for such employee **OR** I have previously filed such evidence with the KRC providing coverage for the above named employee **OR** I have signed the KRC Waiver of Responsibility Statement that the above named employee does not subject me to liability under the Workers' Compensation Laws of Kansas **AND** I have submitted this employee's name to the KRC.

Signature of Employer at the Racetrack _____

18. YES Do you have any employees at KRC licensed racetracks? If "YES", provide the following details:
 NO

Name	Job	Name	Job

KRC RULES REQUIRE: WORKERS' COMPENSATION ACT COMPLIANCE. No person may be licensed as a Trainer, Owner, or in any other capacity in which such person acts as the employer of any other licensee at any authorized race meeting, unless his or her liability for Workers' Compensation has been secured in accordance with the Workers' Compensation Act of the State of Kansas and until a Certificate of Insurance or other appropriate evidence of self-insurance evidencing such security for liability is provided to the Commission. Should any such required security for liability for Workers' Compensation be cancelled or terminated, any occupation license held by such person may be subject to summary suspension and may be grounds for revocation of the license. If a license applicant or licensee certifies that he or she has no employees that would subject him or her to liability for Workers' Compensation, he or she may be licensed until such time as he or she has employees, when he or she must inform the Commission of such employee(s) and furnish a Certificate of Insurance or other appropriate evidence of self-insurance evidencing that the employee(s) are covered by Workers' Compensation Insurance.

If you have Workers' Compensation Insurance, provide the following information:

(Insurance Company)	(Phone Number)	(Policy Number)	(Expiration Date)
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If the answer to either part of Question 18 above is "NO", you must read and sign the Waiver of Responsibility Statement below:

******WAIVER OF RESPONSIBILITY STATEMENT******

I hereby certify I have no employees at a racetrack licensed by the Kansas Racing Commission which would subject me to liability under Workers' Compensation Laws of the State of Kansas, and if, at a later date, facts change to subject me to any such liability, I shall immediately notify the Commission and furnish evidence of security for such liability, all as provided by the Rules of Racing of the Kansas Racing Commission.

Signature of Applicant	Signature of Witness
------------------------	----------------------

Any applicant needing to make further remarks or statements concerning qualifications or in answer to any question contained in the application shall make them on the **Supplemental Information Form**, numbering the remarks or statements in accordance with the original questions and attach to this Application.

******ALL APPLICANTS—IMPORTANT—MUST BE READ AND SIGNED******

By the acceptance of a license issued pursuant to this application, I agree to comply with the Rules and Regulations of the Kansas Racing Commission, the laws of the United States of America, the State of Kansas Municipalities and other subdivisions thereof, and consent to any provisions which may be contained in them for search, upon a racing facility of an organization licensee, of any premise which I may occupy or control or have the right to occupy or control and my personal property and effects including a personal search, and the seizure of any article, the having of which upon a racing facility may be forbidden. I hereby request and authorize the Kansas Racing Commission to conduct an official investigation of my personal history and background. I understand that any investigation, the application and any information submitted with relation to my application are subject to the Open Records Act of Kansas and shall be treated in accordance as such. I hereby certify that I understand the above statements and further authorize all consumer reporting agencies to release to the Commission any information requested by the Commission in connection with the background investigation and processing of this application. I hereby swear or affirm that all statements herein are complete and true. I understand that failure to disclose all information accurately may result in refusal to issue, denial or revocation of this license. I have read and understand the above and knowingly and voluntarily attach my signature hereunto.

All occupation licenses conditioned upon satisfactory background investigation.

Signature of Applicant	Date
------------------------	------

State of _____

County of _____

Sworn to before me this _____ day of _____, 19____.

(SEAL)

Notary Public

My Commission Expires: _____