

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at _____
Chairperson

1:30 ~~am~~/p.m. on Tuesday, April 7, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

- Lynne Holt, Kansas Legislative Research Department
- Mary Galligan, Kansas Legislative Research Department
- Mary Torrence, Office of the Revisor of Statutes
- Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

HB 3192

PROPONENT - Representative Joan Hamilton, 51st District, State of Kansas

OPPONENT - Gary Stotts, Secretary, Department of Corrections, State of Kansas

HB 3192 - OPPONENT

Ted Steinmeyer, Vice President, Sales & Marketing, Motivation Services

SB 703

Dana Nelson, Executive Director, Kansas Racing Commission

Chair Sebelius called the meeting to order.

HB 3192

Representative Hamilton appeared before the Committee to explain and support HB 3192. She stated the request for this legislation was on behalf of herself and the five member subcommittee that did the sunset review of the Department of Corrections. She added that it was a unanimous decision of the subcommittee that this legislation be introduced, and it was in this Committee because of the exempt status and time frame to work in. The bill would correct the situation of inmates who work and do not pay 5% of their wages to the Victims' Compensation Fund. Representative Hamilton explained that only a total of 36 inmates maximum are presently giving to the Victims' Compensation Fund. And out of the 5600 inmates as of June 30, 1991, 66% are working .

Gary Stotts appeared as an opponent of HB 3192 before the Committee, Attachment #1.

Questions from Committee members for Secretary Stotts:

- This legislation does not tie just to inmates who are ordered to pay restitution, this is across the board 5%.

Unless specifically noted, the individuals whose remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

**MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
room 526-S, Statehouse, at 1:30 p.m. on Tuesday, April 7, 1992.**

- What is a local property crime fund, and what counties have them? Representative Hamilton answered because your crime victim is only entail person crimes, your local places have their own property crime restitution officer. She was not sure about how many counties have this fund set up.
- When an inmate out on parole is ordered to make restitution, the parole officers supervise that and see that it is paid?
- If that payment for restitution is not occurring, what should happen?
- Do you have any idea of any revocations that have occurred in the last year?
- If the amount of money that we are talking about could be paid to the Crime Victims' Compensation Fund or a local property crime fund, who determines this?

HB 3199

Chair Sebelius opened the public hearing on HB 3199, and explained that this is the bill that came up as an amendment on the floor of the House when we discussed the modification to the "Trading Stamp Act". She added that Representative Patrick brought this down as an amendment, we had just been referred this bill, and we have scheduled a hearing, but Representative Patrick is not here.

Ted Steinmeyer, an opponent to HB 3199, appeared before the Committee and urged them not to report HB 3199 favorable for passage, Attachment #2. Mr. Steinmeyer asked Bud Grant, Kansas Chamber of Commerce and Industry, if he would be supportive of the verbiage or in favor of striking the verbiage spoken about today.

Mr. Grant, with the Chairs permission, stated that KCCI is opposed to the repeal of the entire Trading Stamp Act, however there have been exceptions to that prohibition, of which this is an exception.

The Chair stated that she is confused about why this exemption was not added into the other exemption that the Committee had already had a public hearing on? She asked Mr. Steinmeyer if it would be his preference if nothing was done about this, or is he advocating some change in the law that has this language in it?

Mr. Steinmeyer, explained that although he was not entirely sure about procedures, he would like to see the law changed by striking language as stated on page two of Attachment #2.

Questions from Committee members:

- If it is unlawful in the first place to do it, why should we strike out the provision that says it shall be unlawful?

Mr. Steinmeyer explained that a Trading Stamp company couldn't issue trading stamps in the State of Kansas or open a trading stamp redemption

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room 526-S, Stathouse, at 1:30 p.m. on Tuesday, April 7, 1992.**

center in the State of Kansas, but we would like to do for all of the clients that we've got throughout the United Stamps is for them to be able to send in redemption vehicles, like an award certificate, a coupon, a proof of purchase, and allow us to be able to fulfill merchandise for those redemption vehicles.

Chair Sebelius announced that staff is going to make copies for the Committee of the Trading Stamp statute. At this time, she suggested that this hearing be passed over until the Committee has the language before them today.

SB 703

Chair Sebelius opened the public hearing for SB 703, and introduced Dana Nelson as a proponent, Attachment #3.

A Committee member pointed out page 5 of the bill, language on accessing the cost of an adverse proceeding, line 14 says if the Commission is the winner, the cost "may" be accessed against the parties. Line 18 says if the Commission is the loser costs "shall" be paid. Why is one optional and the other mandatory? You want to suggest to the Legislature in all cases if you are unsuccessful, even if you pursuing a legitimate question, that you **shall** pay the costs?

Another Committee member asked why the appeals of orders of the Racing Commission would be treated differently than appeals from any other administrative body? It was suggested that it be governed by the Administrative Procedure Act. There was discussion about litigating cases in other Kansas counties when the licensee was not a resident of the county and no longer in the state.

One Committee member asked how many attorneys were on loan to the Racing Commission from the Attorney General's office.

One Committee member asked what the penalty is for dumping greyhounds after they have been used?

Chair Sebelius closed the hearing on SB 703.

HB 3199 - continued

Upon receiving a copy of the Trade Stamp statute, Attachment #4, Chair Sebelius explained that Mr. Steinmeyer is suggesting repealing the last sentence.

Questions from Committee members:

- In the first part of the statute, the language is "to use, issue or distribute", and in the last sentence it is to "redeem". Why would you be interested in the repealing the redemption part and not the first part?

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**MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
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- If it would remain unlawful in Kansas to use, issue or distribute the stamps, how in the world could somebody redeem them.

Mr. Steinmeyer explained that he is not concerned about the State of Kansas in terms of issuing them as he is in redeeming them. We do business with people all over the United States, and they may get redemption vehicles and they will redeem those redemption vehicles through our company who is headquartered in the State of Kansas. He explained the strict interpretation of this law would prevent us from doing that.

- Wouldn't you need to strike the word "use" in the first part of the statute, also?
- Why wouldn't the statute 21-2803, page 2 of Attachment #4, which has an exemption cover your situation?

Mr. Steinmeyer explained that he read that to be that you could redeem the item for a piece of merchandise that was manufactured by the issuer of the coupon, and we don't manufacture any thing in our business.

- Why couldn't you fall under a packer?
- Wouldn't inserting the definition of what you are in K.S.A. 21-2803 be a lot clearer because this is what exempts you from the act as opposed to repealing a portion of the act that is giving us all of the problems?
- If the question is whether or not the two terms manufacture or packer apply to your company, it seems that what we need to do is come up with a term that applies to your company and insert you in K.S.A. 21-2803 instead of repealing that final sentence in K.S.A. 21-2801?

Mr. Steinmeyer asked how he would go about doing that? Chair Sebelius asked him what the word is that covers his business. Mr. Steinmeyer replied "marketing services" is the appropriate word.

- You refer only to K.S.A. 21-2801. Do you deal with anything involving trading stamps or similar devices redeemable in cash, which is K.S.A. 21-2802, and if yes, why wouldn't you want to strike the last part of K.S.A. 21-2802?

Mr. Steinmeyer answered yes, rebate coupons, and the Committee member is probably right, but that was overlooked by mistake.

Chair Sebelius suggested that Mr. Steinmeyer and Martha Jenkins work with the Office of the Revisor of Statutes and get back to the Committee with a balloon that would apply to this case. Then we can take the issue back up with some specific language.

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MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
room 526-S, Statehouse, at 1:30 p.m. on Tuesday, April 7, 1992.

Chair Sebelius closed the public hearing for HB 3199, and announced that Representative Lane has a request for bill introduction.

Representative Lane stated that K.S.A. 44-401 is an act regarding private employment agencies and it has a list of 6 exemptions.

Representative Baker made a motion to introduce Representative Lane's request as legislation. Representative Graeber made a second to the motion, which passed on a voice vote.

Chair Sebelius announced that Ron Heim, Coalition for Instant Bingo, has a written statement from the Kansas Lottery that they did not have objections to HB 3114, and a written statement from the Department of Revenue that they had no objections, as well as some suggested amendments, Attachment #5.

Representative Hamilton made a motion to adopt the amendments to HB 3114. Representative Rock made a second to the motion, which passed on a voice vote.

Representative Hamilton made a motion to report HB 3114 as amended favorable for passage. Representative Graeber made a second to the motion.

Representative Roy made a substitute motion to amend the bill to include political parties under the group who can play bingo. Representative Charlton made a second to the motion.

Chair Sebelius stated the ayes appeared to have it by a voice vote. Division was called. The substitute motion passed by a show of hands, 10 in favor, 8 opposed.

Representative Hamilton made a motion to report HB 3114 as amended favorable for passage. Representative Graeber made a second to the motion, which passed on a voice vote.

Representative Long requested to be recorded as voting against the motion.

Chair Sebelius adjourned the meeting.

GUEST LIST

DATE 4-7-92

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Jim Karasik	Topeka	ABC
Jim Conant	Top.	ABC
Martha Jenkins	Topeka	Loyalty Management
J.P. Stummeyer	LENEVA	MOTIVATION SERVICES
Janet Chubb	Topeka	racing commission
Tom Fren	Topeka	Kansas Chautauq Association
Joe Berger	Topeka	Kansas Sunflower Club Assoc.

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

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(913) 296-3317

Joan Finney
Governor

Gary Stotts
Secretary

MEMORANDUM

To: House Federal and State Affairs Committee
From: Gary Stotts, Secretary of Corrections
Subject: HB 3192
Date: April 7, 1992

HB 3192 amends K.S.A. 75-5268 by requiring that a five percent deduction be applied to all incentive pay and wages earned by inmates in the Kansas correctional system, and that the amounts so deducted be paid to the crime victims compensation fund or to a local property crime fund for the purpose of victim compensation. Under current law, these provisions apply only to wages earned by non-work release inmates employed by private industry. If enacted, HB 3192 would result in inmate wage deductions of approximately \$123,000 per year, and an increase by an equivalent amount in receipts to state and/or local crime victims compensation funds. This is based on total estimated gross earnings of \$2,465,000 in FY 1993 for inmates in work release and inmates receiving incentive pay in correctional facilities. The amounts do not include earnings of non-work release inmates employed by private business, since the five percent deduction already applies to them.

HB 3192 was introduced at the request of the House Government Organization Committee in conjunction with its sunset review of the Department of Corrections. While the department appreciates the bill's objectives of increasing compensation to victims and of increasing inmates' accountability for crimes that they commit, we nonetheless have reservations about the bill's provisions and their potential impact on departmental operations.

Although the statutory (K.S.A. 75-5211) minimum for inmate incentive pay is \$.25 per day, the current pay scale for inmates

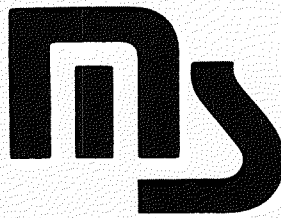
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Attachment #1

ranges from \$.45 per day to \$1.05 per day (excluding private industry and work release). Both the minimum and maximum rates in Kansas are considerably lower than the national minimum and maximum averages of \$.99 and \$3.98 per day for non-industry jobs in correctional facilities. The disparity is even higher for inmates working in non-private, correctional industry jobs. In Kansas, non-private, Kansas Correctional Industries jobs pay \$.60 - \$1.05 per day, while the range nationally averages \$1.88 - \$7.64. At the current incentive pay rates, most inmates do not leave the correctional system with much in the way of fiscal resources.

The inmate pay scale has not been increased in Kansas for several years and we believe that a five percent cut in inmate incentive pay at this point may adversely affect inmate incentive and inmate productivity. Management problems resulting from decreased behavioral incentives, as well as an increase in the incidence of property theft among inmates, could result. Inmate pay currently is a significant incentive for the management of inmates, and will increase in importance if sentencing guidelines are enacted.

Moreover, provisions currently exist for offenders to pay court-ordered restitution to victims. Procedures exist for payment of restitution by work-release inmates, and payment of court-ordered restitution frequently is made a condition of parole.

Finally, the bill in its current form presents administrative difficulties relating to provisions for local fund reimbursement. There is no reporting system in place by which the department is routinely informed of restitution payments made from local funds to victims of property crimes. For this reason, all of the payments now made from the five percent deduction applied against the gross earnings of non-work release inmates employed by private industry are made to the state crime victims compensation fund. If this bill progresses, consideration should be given to an amendment that deletes the local fund reimbursement requirement or one that provides an appropriate administrative mechanism to implement it.



MOTIVATION SERVICES

Full Service Catalog and Incentive Programming

MEMORANDUM

TO: Representative Kathleen Sebelius, Chairman
Members of the Committee on Federal and State Affairs

FROM: Ted Steinmeyer, Vice President, Sales & Marketing

SUBJECT: KSA 21-280
Trading Stamp Statute

DATE: April 6, 1992

Dear Madam Chairman and Members of the Committee:

The purpose of this memorandum is to request the repeal of certain language in KSA 21-2801 relating to the redemption of stamps, coupons, tickets, certificates, cards, or other similar devices by a corporation in the state of Kansas.

Background:

Motivation Services, a division of the Peavey Corporation and headquartered in Lenexa, KS, is in the business of helping our clients achieve specific corporate objectives through the effective utilization of incentive marketing programs. Currently, we employ over 70 people in our headquarters facility.

Although most of the incentive programs that we develop and manage for our clients are for sales, dealer, distributor, wholesaler, etc. organizations, we do sometimes assist our clients in developing and implementing consumer incentive, loyalty, or "frequency marketing" programs. Often, these types of marketing programs require redeeming proofs of purchase, coupons, certificates, etc. for merchandise. We procure, inventory, and distribute that merchandise on our clients' behalf. Examples of these types of programs are as follows:

1. Virtually every General Mills cereal box or Betty Crocker cake mix contains a proof-of-purchase point icon which can be clipped, saved, and ultimately redeemed by the consumer for merchandise from a small catalog.



A DIVISION OF THE PEAVEY CORPORATION

11148 THOMPSON AVENUE • LENEXA, KANSAS 66219 • (913) 888-1095



House Federal & State

*Affairs
April 7, 1992
Attachment #2*

Page 2

2. Proctor and Gamble markets Pampers diapers. Consumers can collect proofs of purchase and redeem those proofs of purchase for infant-related merchandise from a small catalog.
3. A manufacturer of a consumer product might wish to place coupons in a package and have consumers collect a certain number of coupons in order to redeem for merchandise awards.

Once again, we are in the business of fulfilling merchandise orders for these types of programs.

Situation:

A strict interpretation of KSA 21-2801 could seriously jeopardize our business and force us to move our operation to Missouri in order to continue conducting our business.

We doubt that the intent of KSA 21-2801 was to prohibit the type of enterprise in which we are engaged.

Requested Action:

Therefore, we would like to amend KSA 21-2801 by repealing the last paragraph which reads:

"On and after April 16, 1958, it shall be unlawful for any person, firm, association, or corporation to redeem any stamps, coupons, tickets, certificates, cards, or other similar devices, the use, issuance, distribution, or furnishing of which is made unlawful by the proceeding provisions on this section."

We would appreciate your advise regarding the best possible way to proceed; either by attaching an amendment to an existing bill under consideration or developing a completely new bill.

We thank you for your consideration of this very important matter.

cc: Zane Peavey, President
Gary Gillam, Vice President, Finance and Operations

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Testimony of Dana Nelson
Executive Director
Kansas Racing Commission
before the
House Federal and State Affairs Committee
April 7, 1992

Good afternoon Madam Chairman and members of the House Federal and State Affairs Committee. My name is Dana Nelson I am the Executive Director of the Kansas Racing Commission. The bill before you this morning, Senate Bill 703, was introduced at the request of, and on behalf of the Kansas Racing Commission. This bill represents the commission's only initiated piece of legislation this session, and was approved unanimously by the Commission for submission to the Legislature.

I would like to tell you that everything in this bill represents cleanup, but I must acknowledge there are some issues which deserve discussion before this committee, and some issues for which the commission sought guidance from the legislature, some of which we received from the Senate.

Some of the items recommended for change by the Commission require a number of internal reference changes throughout the statute, so if you will bear with me I will try to touch on

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Attachment # 3*

those items, and identify for you the changes necessary to accomplish the commission's goal.

The first change we are recommending is a revision to the definition of "race meeting". On the top of page 3, lines 1 through 3 you will see that the italicized language will modify the definition of race meeting to include such additional time as designated by the commission for the conduct of official business before and after races. This language when combined with the language on page 3, lines 18 through 23, which strikes some language designating the period of time that the commission would regulate a race meeting would allow the Kansas Racing Commission to conduct the kind of regulation necessary. These changes also allow the commission regulatory oversight at a facility during simulcasting. The reason for the changes is to clarify that the Commission has authority and regulatory oversight during the period of racing, but at other times the facility owner should be able to use its facility for purposes it deems appropriate. This particular dilemma is one of the reasons which caused the Commission to revoke the license of Eureka Downs. Under the current statute, the Commission found that it had a continuing authority and obligation to regulate the facility even when races were not being conducted. We do not believe that was what was intended by the legislature, nor do we think that, is efficient in terms of regulating a seasonal racing track such as at Eureka Downs. In order to fully implement the revision of the race meeting definition, some

changes needed to be made to K.S.A. 74-8824, the section which deals with admissions taxes. You will note on pages 30 and 31 of your bill those changes. They simply make changes so that admission taxes are collected on race meetings, and not simply for attendance at the race facility for other things.

A second change recommended to the bill is a licensing provision for totalisator services. The totalisator service is the computer service which accepts and records wagers, calculates the odds, and ultimately calculates the payouts. It is a contractual arrangement with a private business, and is an intricate part of the entire parimutuel wagering system. Currently, the provisions for licensing concessionaires does not cover totalisator services, yet we believe this is a very important area for licensing. This is also a major point of emphasis on the national level. Standards and regulations for totalisator companies will be established, and increased oversight and regulation of totalisator companies, to ensure that computer interaction and communication is carried out properly, will be critical. The additional definition on page 3, lines 15 through 17, and the language on page 28 beginning with line 11, and continuing on page 29 through line 41, establishes a procedure for licensing totalisator companies. That procedure is generally consistent with the procedure for licensing concessionaire licensees. One difference worthy of pointing out is that totalisator licenses would be issued for a period of not more than ten years, while a facility owner and

organization license can be issued for twenty-five years. The language proposed is consistent with language in existing statutes for other licensing decisions. Denial must be handled pursuant to the Kansas Administrative Procedures Act, there are standards for denial, and the opportunities for the commission to conduct background investigations on owners or personnel of the totalisator company are included.

Legislative staff also recommended a pair of changes to K.S.A. 74-8810, which is the prohibited acts section of the statute. In that section, they recommended including totalisator license to the criminal penalties for members and employees of the commission, and for officers, directors, or members of the organization licensee. We had some concern in this area on the Senate side, as the totalisator companies are publicly traded stocks, and it would be possible that a member or employee of the commission, or an officer, director, or member of an organization licensee, could hold stock in those companies. Since the tracks contract for totalisator services, they could at the end of a contract period select a different totalisator company, and rather innocently and coincidentally bring a member or employee of the commission, or an officer, director, or member of the organizational licensee into conflict with the state statute. The Senate adopted language to cover this possibility by setting a threshold level of 5% before any criminal wrong doing would be alleged. This is probably not a

serious problem, but the Senate amendment covers any potential problem.

The third change recommended to the statute requires considerable massaging of the parimutuel racing act. Currently, the Kansas Racing Commission can utilize criminal records to approve or deny racing licenses. As a law enforcement agency, the Commission has been able to secure juvenile records as well. We have found in some instances, that individuals have applied for licenses, who have a rather extensive record. Frequently, those acts committed as juveniles would have been felonies had they been committed by adults. We have been operating in a gray area, uncertain whether or not we could or should use those juvenile records to deny licensing. We sought guidance from the legislature in this area, and the Senate agreed that the Kansas Racing Commission should use juvenile records for determination of whether or not individuals should be licensed, but recommended that only the past five years be considered. I would tell this committee that the use of juvenile records are handled in the most confidential way possible and we do not dig back into somebody's life some twenty or thirty years to make determinations, but many of the acts that I am referring to have been committed in the past two to three years. In many cases, the individuals involved are still juveniles, but in other cases they have subsequently turned 18 or are now 19 and 20. In order to implement the language clarifying that the commission has the authority to utilize

juvenile records, changes are required on page 4 lines 16 through 19, page 6 lines 18 through 22, page 13 lines 8 through 11, page 21 lines 24 through 37, page 25 lines 13 through 20, page 27 lines 25 through 33, page 29 lines 11 through 19, and page 31 lines 29 through 31.

Janet Chubb, an Assistant Attorney General assigned to the Kansas Racing Commission is here today to answer questions or respond to your concerns about the use of juvenile records. Janet has spent considerable time discussing the issue with individuals involved in the juvenile criminal justice system.

The commission is also asking for the authority to recover and assess costs for proceedings adverse to a licensee or applicant. These costs would be assessed only in the instance of the commission being the successful party. The commission is proposing language on page 5 lines 12 through 31 to implement this particular item. This language is based on language previously adopted by the legislature for the Board of Healing Arts. Consequently, there is some precedent to approve and adopt language for the recovery of costs. As you are all aware, the racing industry is one of the most highly regulated industries in the country. As a result, there are frequently violations or alleged violations of the racing act or its rules. Sometimes the investigation into the allegations and charges require extensive commission activity, research and investigation. On occasions, it has required the employment of

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outside resources to examine areas which the racing commission has inadequate resources to examine. Such was the case some one and one-half years ago when the Commission embarked on an extensive investigation into the ownership and management structure of Wichita Greyhound Park. After conducting extensive examinations, the commission found that its most significant authority was to revoke or suspend the racing license of the licensee. This appeared to serve no real useful service as everybody would lose. The greyhound park agreed to reimburse the Commission up to \$200,000 for outside legal and investigative expenses. This was done on a voluntary basis, and resulted in covering most of the costs of the investigation. However, the commission had no authority to order such a payment. In fact, at that time, the commission did not even have the authority to assess fines for violations by the facility owner and manager. That was corrected a year ago in the statute. Once again, Janet Chubb is here to answer some of the questions or concerns which may be expressed by this recommended provision.

Continuing on page 5, lines 32 and 36 you will see that the commission is recommending that judicial review of orders from the commission shall be filed in the District Court of Shawnee County or the county in which the racetrack is located. Currently, as the legislature is aware, actions for judicial review can be filed in any county in which they have authority. For the Commission, that would allow the filing in any county in

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the State of Kansas. The hardship of sending staff to other counties, and transporting records from our main offices in Topeka to outlying counties is and could be financially burdensome to the agency. Because people making appeals live in other areas of the state other than where the racing is being conducted (currently only Sedgwick and Wyandotte Counties), an action in those counties would be burdensome. By limiting venue to Shawnee County and those counties where a track is located, we have taken a significant step in the right direction.

The next change recommended to the existing statute is at the bottom of page 8 lines 12 and 14 where the commission proposes to include stockholder and shareholder to the restrictions of ownership of racing animals. Under the current statute an officer, director, or employee of a facility owner or manager license could not own a racing animal, but a shareholder of the corporation could. In other words, the primary owner of the facility, simply by refraining from being an officer or director would have the ability to own a racing animal, while one of his hired employees could not. We believe that was an oversight in the drafting of the original statute, and in fact the legislature intended for the owner of the facility to have such restrictions placed on them as well as their employees.

On page 8, lines 23 and 24 we are asking for an additional modification to the language on who was eligible to place wagers at a racetrack. We are recommending language on lines 9 and 10

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to include those people who could influence the outcome of the parimutuel wagering. Currently the restriction is limited to those who could influence the outcome of a race. However, during a recent investigation of some activities at the Woodlands, we found that there are some key positions which could influence the outcome of the parimutuel wagering, by placing, and then canceling large wagers on long shots, or by utilizing inside information to place bets on betting interests which are likely to be in the payoffs. During this investigation, we found that we had very few teeth in the statute or our administrative rules to deal with such an insider information situation.

On page 11 of your bill, lines 5 through 10, the commission is recommending, that horses or greyhounds owned by stables, or kennels, be registered with the Kansas Racing Commission, and a registration fee assessed. The reason for wanting stables and kennels to register, is that such names as ABC Stables, or XYZ Kennels, reveal little to the racing commission or the betting public as to who the proper ownership is. By requiring registration, and the payment of the fee, the racing commission can extract such information, make sure that all owners of the stable or kennel are properly licensed, and eligible for licensing, and cover the costs of such registration and licensing. The language of allowing a maximum fee of \$200 a year is consistent with existing statutes for occupational licensing. I would represent to this committee, that the

highest occupational license fee in Kansas is currently \$40.00 per year.

The final change is simply a cleanup recommendation, on page 21 lines 3 through 6. Language which is repeated for a second time is overstricken.

As I said at the outset of my remarks, the Commission examined these issues, and approved them by a vote of five to zero for submission to the legislature. We believe the items incorporated in this bill will strengthen the commissions hand in dealing with the complex regulatory issues of the racing industry. I also indicated to you that there are some issues which deserved some direction from the legislative body like juvenile records and venue. The Senate offered some direction which the commission feels comfortable with, and would encourage this committee to adopt the bill in its current form. I would be pleased to try to respond to your questions or comments at this time.

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Article 27.—CEREAL MALT BEVERAGES

21-2701 to 21-2705.

Revisor's Note:

Transferred to 41-2701 to 41-2705.

21-2705a.

Revisor's Note:

Transferred to 41-2710.

21-2706.

Revisor's Note:

Transferred to 41-2708.

21-2707.

Revisor's Note:

Transferred to 41-2709.

21-2708.

Revisor's Note:

Transferred to 41-2711.

21-2709.

Revisor's Note:

Transferred to 41-2712.

21-2710.

History: L. 1937, ch. 214, § 10; L. 1941, ch. 220, § 1; Repealed, L. 1949, ch. 244, § 6; July 1.

Revisor's Note:

Later act, see 41-2713.

Article 28.—TRADING STAMPS

Source or prior law:

19-2210 to 19-2214.

Law Review and Bar Journal References:

Constitutionality of prohibitive legislation, 10 K.L.R. 456-460 (1962).

21-2801. Trading stamps or similar devices redeemable in merchandise or other thing of value prohibited. On or after April 16, 1958, it shall be unlawful for any person, firm, association or corporation to use, issue or distribute, or for any person, firm, association or corporation to furnish to any other person, firm, association or corporation to use, issue or distribute, in, with, or for the sale of goods, wares or merchandise, any stamps, coupons, tickets, certificates, cards, or other similar devices, which shall entitle the purchaser receiving the same with the sale of goods, wares, or merchandise to procure from any person, firm, association or corporation, any goods, wares, merchandise or anything of value upon the production of any number of such

stamps, coupons, tickets, certificates, cards or other similar devices. On and after April 16, 1958, it shall be unlawful for any person, firm, association or corporation to redeem any stamps, coupons, tickets, certificates, cards, or other similar devices, the use, issuance, distribution or furnishing of which is made unlawful by the proceeding provisions of this section.

History: L. 1957, ch. 177, § 1; L. 1965, ch. 234, § 1; June 30.

Research and Practice Aids:

Trade Regulation — 878.

C.J.S. Trade-Marks, Trade-Names and Unfair Competition § 239.

Attorney General's Opinions:

Trading stamps; exemptions from prohibited activities. 81-172.

Trading stamp act; inapplicable to certain coupons and devices. 83-115.

CASE ANNOTATIONS

1. Act discussed; held constitutional and valid. *Cushenbery v. Shanahan*, 190 K. 720, 721, 724, 725, 378 P.2d 66.

2. Series E savings bonds are not included in the term "goods, wares or merchandise." State, ex rel., v. *American Savings Stamp Co.*, 194 K. 297, 298, 299, 300, 398 P.2d 1011.

3. Act applicable to but not violated by promotion where bottle caps redeemable for cash and prizes; exempt under 21-2803. State ex rel. *Stephan v. Pepsi-Cola Gen'l Bottlers, Inc.*, 232 K. 843, 844, 845, 659 P.2d 213 (1983).

21-2802. Trading stamps or similar devices redeemable in cash or other thing of value prohibited. On and after April 16, 1958, it shall be unlawful for any person, firm, association or corporation to use, issue or distribute, or for any person, firm, association or corporation to furnish to any other person, firm, association, or corporation to use, issue or distribute, in, with, or for the sale of any goods, wares or merchandise, any stamps, coupons, tickets, certificates, cards or other similar devices which shall entitle the purchaser receiving the same with the sale of goods, wares, or merchandise to procure from any person, firm, association, or corporation, any cash or any other thing of value upon the production of any number of said stamps, coupons, tickets, certificates, cards, or other similar devices. On and after April 16, 1958, it shall be unlawful for any person, firm, association, or corporation to redeem any stamps, coupons, tickets, certificates, cards, or other similar devices, the use, issuance, distribution or furnishing of which is made unlawful by the preceding provisions of this section.

*House Federal State Affairs
April 7, 1992
Attachment #4*

History: L. 1957, ch. 177, § 2; L. 1965, ch. 234, § 2; June 30.

CASE ANNOTATIONS

1. Series E savings bonds are not included in the word "cash." State, ex rel., v. American Savings Stamp Co., 194 K. 297, 298, 299, 300, 398 P.2d 1011.

21-2803. Trading stamp act inapplicable to certain coupons and similar devices. This act shall not apply to any coupon, ticket, certificate, card or other similar device which is issued, distributed, furnished or redeemed:

(a) By a manufacturer or packer, when such coupon, ticket, certificate, card or other similar device is redeemable:

(1) Without or with accompanying cash, for any product of the manufacturer or packer or for one specified and particular product not manufactured or packed by the manufacturer or packer; or

(2) by the manufacturer or packer in cash.

(b) By a retailer, when such coupon, ticket, certificate, card or other similar device is redeemable by the retailer, with or without accompanying cash, for any product which the retailer normally sells in its usual course of business.

History: L. 1957, ch. 177, § 3; L. 1979, ch. 91, § 1; July 1.

Attorney General's Opinions:

Trading stamps: exemptions from prohibited activities. 81-172.

Trading stamp act: inapplicable to certain coupons and devices. 83-115.

CASE ANNOTATIONS

1. Exception in favor of manufacturers and packers valid and not unlawfully discriminatory; act valid. Cushenbery v. Shanahan. 190 K. 720, 721, 722, 724, 725, 378 P.2d 66.

2. Act applicable to but not violated by promotion where bottle caps redeemable for cash and prizes: exempt hereunder. State ex rel. Stephan v. Pepsi-Cola Gen'l Bottlers, Inc., 232 K. 843, 846, 847, 659 P.2d 213 (1983).

21-2804. Penalties. Any person, firm, association or corporation violating either K.S.A. 21-2801 or 21-2802 shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars (\$100) for each day said person, firm or corporation is in violation of either of said sections, or be imprisoned in the county jail for not less than sixty (60) days, or by both such fine and imprisonment, at the discretion of the court: *Provided*, That whenever a corporation shall violate any provision of either K.S.A. 21-2801 or 21-2802, such violation shall be deemed to

be also that of the individual directors, officers or agents of such corporation who shall be authorized, ordered, or done any of the acts constituting in whole or in part such violation: *And provided further*, That a corporation and its different officers, agents and servants may each be prosecuted separately for violation of any provision of either K.S.A. 21-2801 or 21-2802, and the acquittal or conviction of one such officer, agent or servant shall not abate the prosecution of the others. Violators of any provision of either K.S.A. 21-2801 or 21-2802 may also be enjoined or ousted from the continuing of such violation by proceedings brought by the county attorney of the proper county, or by the attorney general, regardless of whether criminal proceedings have been instituted.

History: L. 1957, ch. 177, § 4; April 26.

CASE ANNOTATIONS

1. Mentioned: Series E savings bonds are not prohibited by trading stamp act. State, ex rel., v. American Savings Stamp Co., 194 K. 297, 299, 398 P.2d 1011.

2. Penal nature of act recognized and strictly construed against state; promotion where bottle caps redeemable for cash and prizes not violation. State ex rel. Stephan v. Pepsi-Cola Gen'l Bottlers, Inc., 232 K. 843, 846, 659 P.2d 213 (1983).

21-2804a. Same; penalties for violations of 21-2801, 21-2802. Persons violating K.S.A. 21-2801 or 21-2802 shall upon conviction be subject to the penalties prescribed by K.S.A. 21-2804.

History: L. 1965, ch. 234, § 3; June 30.

Law Review and Bar Journal References:

Mentioned in 1963-65 survey of sales law. Curtis D. Terflinger. 14 K.L.R. 355, 357 (1965).

21-2805. Invalidity of part. If any sentence, clause, provision or section of this act shall be held unconstitutional, such decision shall not affect the validity or the constitutionality of any other sentence, clause, provision or section herein contained and it shall be conclusively presumed that the legislature would have enacted the remainder of this act without the sentence, clause, provision or section so held unconstitutional.

History: L. 1957, ch. 177, § 6; April 26.

Article 29, 30.—RESERVED

CRIMINAL CODE TABLE

Table of Corresponding Sections of Chapter 21 of the Kansas Statutes Annotated and Supplement Thereto to Kansas Criminal Code.

HEIN, EBERT AND ROSEN, CHTD.

ATTORNEYS AT LAW

5845 SW 29th Street, Topeka, Kansas 66614

Telefax: (913) 273-9243

(913) 273-1441

*Ronald R. Hein
William F. Ebert
Eric S. Rosen*

April 7, 1992

Dear Committee Member:

Representative Kathleen Sebelius indicated HB 3114, which authorizes instant bingo to be played by bingo licensees, would be worked when the Department of Revenue and the State Lottery indicated their positions in writing to the Committee, in light of concerns that were raised at the hearing. They have now done so, and Representative Sebelius asked that I distribute copies of the correspondence received by her from the Department of Revenue and State Lottery with regards to the issue. They are enclosed.

The Department of Revenue has recommended amendments which insure effective enforcement of HB 3114. If those amendments are adopted, the Department of Revenue supports the bill. The State Lottery has indicated they have no objections to the bill.


With the amendments approved by the Department of Revenue, the bill is now supported by the American Legion, the Veterans of Foreign Wars, the Knights of Columbus, the Eagles, the Elks, the Moose, Kansas Charities Cooperative (representing the parlors), the Sunflower Club (representing the various lodges), and the Department of Revenue. The only opponent at the hearing was Kansans for Life at its Best, which submitted a written statement.

Based upon results of similar legislation in other states, including neighboring states of Colorado, Missouri, and Nebraska, HB 3114 should raise between \$500,000 and \$1,000,000 for the State of Kansas in tax revenues.

The Coalition for Instant Bingo strongly urges you to adopt the balloon amendments proposed by the Department of Revenue, and to recommend HB 3114 favorably for passage.

Sincerely,

HEIN, EBERT AND ROSEN, CHTD.


Ronald R. Hein
Legislative Counsel
Coalition for Instant Bingo

cc: Coalition for Instant Bingo

*House Federal & State Affairs
April 7, 1992
attachment #5*

STATE OF KANSAS

Robert A. Engler, Director
512 S.W. 6th, 2nd Fl.
Topeka, Kansas 66603-3150



(913) 296-3946
FAX (913) 296-0922

Department of Revenue
Division of Alcoholic Beverage Control

MEMORANDUM

TO: Rep. Kathleen Sebelius, Chairperson
House Committee on Federal & State Affairs

FROM: Robert Engler, Director
KDOR, Alcoholic Beverage Control Division

DATE: March 31, 1992

SUBJECT: House Bill 3114

Based on a further review of House Bill 3114, the Department has made several recommendations designed to address the initial concerns identified in the introduced version. A brief summary of the proposed amendments and a copy of the bill with amendments in balloon form are attached.

We have suggested language which imposes sufficient controls on the new "instant bingo" game to ensure that it is operated as cleanly and consistently as possible within the existing bingo structure. The registration of distributors and associated reporting requirements enhance the Department's ability to monitor the flow of bingo devices and accurately collect all applicable taxes. These and other suggested improvements will have a positive impact on our oversight of the industry without unnecessarily hampering the ability of non-profit organizations to continue funding their programs.

I would be happy to respond to any additional questions or concerns you may have regarding House Bill 3114. If it is determined that our suggested amendments should be included in the bill, the Department would support its passage into law.

HF³SA
4-7-92
#5-2

Description of HB3114 as Originally Filed

Prepared by D. Philip Wilkes of the Kansas Dept. of Revenue

Sec. 1 - K.S.A. 79-4701 (definition section)

- * Adds definitions of "instant bingo" and "instant bingo distributor"
- * Redefines traditional bingo as "call bingo"

Sec. 2 - K.S.A. 79-4706

- * Subdivides subsection (h) into (h) and (i)
- * Inserts in old subsection (i)/new subsection (j) a limit on the price of instant bingo cards
- * Adds new subsection (w) specifying that instant bingo cards may only be sold during bingo sessions.

Sec. 3 - New section

- * Subsections (a), (b) and (c) provide for a \$15 tax to be paid on each box of instant bingo cards by the distributors. The tax is paid by purchasing tax stamps from the Department and affixing them to the boxes.
- * Subsection (d) limits the size of boxes of instant bingo cards to 3,800 cards.
- * Subsection (e) requires that the name of the distributor to be printed on the inventory statement enclosed in each box; that at least 60% of the retail sales price of each box be distributed to the players in prizes; and that no box be opened unless all cards of the same description have been sold from previous boxes.
- * Subsection (f) permits the secretary of revenue to adopt rules and regulations to carry out the provisions of this section.

Sec. 4 - K.S.A. 79-4710

- * Adds subsection (b) to provide for that the \$15 per box charge to be paid by the instant bingo card distributors be divided between the same three funds as the bingo enforcement tax.

Sec. 5 - K.S.A. 79-4711

- * Adds provision that the \$15 per box charge to be paid by the instant bingo card distributors be available for funding of the bingo refund fund in addition to the other bingo taxes and fees.

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#5-3

Changes to HB3114 Proposed by the Ks. Dept. of Revenue

Prepared by D. Philip Wilkes of the Kansas Dept. of Revenue

General changes throughout the bill

- * Changed all references to "instant bingo cards" to "instant bingo tickets" to make clearer the distinction between the two types of bingo.
- * In some cases, changed the word "organization" to "licensee" for the purpose of clarification and consistency.

Sec. 1 - K.S.A. 79-4701 (definition section)

- * Changed "instant bingo distributor" to "bingo card distributor" and redefined it to include distributors of disposable paper call bingo cards. The intent is to collect statistics on the sale of disposable paper call bingo cards from the distributors so that the bingo enforcement tax can eventually be collected at the distributor level on a per bingo face basis rather than at the licensee level on gross sales. We have been considering this move for some time and Nebraska is seriously considering doing the same thing. This will overcome the difficulty we now have in determining whether all licensees are accurately reporting their sales.

Sec. 2 - K.S.A. 79-4706

- * Cleaned up a technical error in the price restrictions on disposable paper call (traditional) bingo cards for regular games. The wording now reflects actual practice and what the Department has been enforcing since 1984.
- * Amended new subsection (w) as to the earliest time that instant bingo tickets may be sold during a bingo session. The bill provided that instant bingo tickets could be sold as soon as the sale of call bingo cards was commenced. However, this would allow the licensee to start the sale of call bingo cards many hours before the bingo games actually start, and therefore sell the instant bingo tickets all day long. We recommend that the instant bingo tickets be sold no earlier than one hour before the start of the first game of call bingo.
- * Added new subsection (x) requiring that licensees purchase all disposable paper call bingo cards and all instant bingo tickets from a registered bingo card distributor.
- * Added new subsection (y), which incorporates some language from the original Sec. 3 and also requires that each instant bingo ticket be imprinted with the name of the distributor, the license number of the licensed organization, and a unique serial number. This is similar to the Nebraska law [9-336].

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Sec. 3 - replaced with a different section (see page 9 of handout)

- * Sec. 3 as originally included in the bill was intended to provide for a \$15 excise tax on each box of instant bingo tickets sold by distributors. This would take the place of the 3% bingo enforcement tax applied to the gross proceeds from the sale of traditional (call) bingo cards. The Department recommends that instead there be a 1% bingo enforcement tax on the retail price of the tickets. This would eliminate any advantage to selling one particular denomination of ticket or any particular size of box over another. The tax would be collected by the distributor and be included in the price charged at the time that the boxes of tickets are sold to the licensees. Other provisions of the original Sec. 3 have been incorporated into other sections, primarily in the proposed new subsection (y) in Sec. 2.
- * Sets the application fee for distributors at \$500. Missouri is \$500 [313.057 Sec. 5.] and Nebraska is \$1,525 [9-330].
- * Permits the Department to establish reasonable criteria for approval of distributors. The Department may refuse to register a distributor if any owner, manager or employee has any felony or gambling conviction. This is similar to the requirement on licensees and premises lessors.
- * Requires distributors to maintain records of sales for three years and make them available to the Department for inspection.

Sec. 4 - K.S.A. 79-4710

- * Amends subsection (a) to provide that the registration fee for distributors be placed in the state bingo regulation fund and that the license and registration fees collected from organizations and registered premises (primarily parlors) also be placed in the state bingo regulation fund instead of the state general fund. These fees currently amount to about \$17,000 annually. This money will be needed by the Department to pay for the additional manpower to do initial investigations and on-going monitoring of distributors.
- * Technical correction to reflect the elimination of the \$15 per box tax provided by the original Sec. 3.

Sec. 5 - K.S.A. 79-4711

- * Technical correction to reflect the elimination of the \$15 per box tax provided by the original Sec. 3.

New Section

- * Provides that any provision found to be unconstitutional shall not effect the remaining provisions of the act. This standard wording is patterned after K.S.A. 74-8834 - Parimutuel Racing and many other Kansas acts.

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Changes to K.S.A. 79-4704 to be added to HB3114

- * Splits the statute in half, designating as subsection (a) the part which specifies the 3% bingo enforcement tax on traditional (call) bingo.
- * Adds subsection (b), which provides for a 1% bingo enforcement tax on retail sales price of the instant bingo tickets, but requires payment at the distributor level. This subsection also requires that the distributor include the tax in the price charged to the licensed organizations and that the tax be listed as a separate item on the invoice.

Changes to K.S.A. 79-4705 to be added to HB3114

- * Amends subsection (a) to require the licensees to report their sales of instant bingo tickets to the Department. This will allow the Department to double check what is reported by the distributors.
- * Inserts a new subsection (b) requiring that the distributors report sales of instant bingo tickets and disposable paper call bingo faces to the Department and pay the tax on the instant bingo tickets.
- * Amends old subsections (b) and (d) to bring the distributors within the penalty provisions if they fail to timely pay the tax on instant bingo tickets.



Joan Finney
Governor

Kansas Lottery

Ralph W. E. Decker
Executive Director

M E M O R A N D U M

To: Kansas State Representative Sebelius
From: Ralph W. E. Decker, Executive Director
Date: April 1, 1992
Re: H. B. 3114 (Bingo Pull Tabs)

The Lottery has no objections to this bill. We feel the effect on the Lottery will be minimal.

RWED:ms

HOUSE BILL No. 3114

By Committee on Federal and State Affairs

2-25

8 AN ACT concerning bingo; relating to instant bingo; levying certain
9 taxes; amending K.S.A. 79-4701, 79-4706, 79-4710 and 79-4711
10 and repealing the existing sections.
11

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

13 Section 1. K.S.A. 79-4701 is hereby amended to read as follows:
14 79-4701. As used in this act, each of the following words and
15 phrases shall have the following meaning unless the context
16 otherwise requires:

17 (a) "Bingo" means *the games of call bingo and instant bingo.*

18 (b) "Call bingo" means a game in which each participant must
19 pay a charge and a prize or prizes are awarded to the winner or
20 winners in which each participant receives one or more cards or in
21 which a card or cards are included in a paper game program booklet
22 each of which is marked off into 25 squares arranged in five horizontal
23 rows of five squares each and five vertical rows of five squares each,
24 with each square being designated by number, letter or combination
25 of numbers and letters, and only the center square designated with
26 the word "free" with no two cards being identical, with the players
27 covering squares as the operator of such game announces a number,
28 letter or combination of numbers and letters appearing on an object
29 selected by chance, either manually or mechanically from a recep-
30 tacle in which have been placed objects bearing numbers, letters or
31 combinations of numbers and letters corresponding to the system
32 used for designating the squares, with the winner of each game
33 being the player or players first properly covering a predetermined
34 and announced pattern of squares upon the card or a card which is
35 included in a paper game program booklet being used by such player
36 or players.

37 (c) "Instant bingo" means a game: (1) in which each participant
38 must pay a charge; (2) in which a prize or prizes are awarded to
39 the winner or winners; (3) in which each participant receives one
40 or more disposable cards or tickets which accord a participant an
41 opportunity to win something of value by opening, detaching or
42 otherwise removing a cover from the card or ticket to reveal a set
43 of numbers, letters, symbols or configurations, or any combination

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1 *merco); (4) which is conducted by a licensee under this act; (5) the*
2 *conduct of which must be in the presence of the participants; and*
3 *(6) which does not utilize any dice, normal playing cards or slot*
4 *machines.*

5 (d) "~~Instant bingo~~ distributor" means any person or entity that
6 sells or otherwise distributes ~~instant bingo cards~~ to licensees under
7 this act.

card

tickets or disposable paper call bingo cards

8 (b) (e) "Nonprofit religious organization" means any organization,
9 church, body of communicants, or group, gathered in common mem-
10 bership for mutual support and edification in piety, worship, and
11 religious observances, or a society of individuals united for religious
12 purposes at a definite place and of which no part of the net earnings
13 inures to the benefit of any private shareholder or individual member
14 of such organization, and which religious organization maintains an
15 established place of worship within this state and has a regular
16 schedule of services or meetings at least on a weekly basis and has
17 been determined by the secretary of revenue to be organized and
18 created as a bona fide religious organization and which has been
19 exempted from the payment of federal income taxes as provided by
20 section 501(c)(3) or section 501(d) of the federal internal revenue
21 code of 1954, as amended, or determined to be organized and op-
22 erated as a bona fide nonprofit religious organization by the secretary
23 of revenue.

24 (e) (f) "Nonprofit charitable organization" means any organization
25 which is organized and operated for:

26 (1) The relief of poverty, distress, or other condition of public
27 concern within this state; or

28 (2) for financially supporting the activities of a charitable organ-
29 ization as defined in paragraph (1); or

30 (3) for conferring direct benefits on the community at large; and
31 of which no part of the net earnings inures to the benefit of any
32 private shareholder or individual member of such organization and
33 has been determined by the secretary of revenue to be organized
34 and operated as a bona fide charitable organization and which has
35 been exempted from the payment of federal income taxes as provided
36 by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) and 501(c)(7) of the
37 federal internal revenue code of 1954, as amended, or determined
38 to be organized and operated as a bona fide nonprofit charitable
39 organization by the secretary of revenue.

40 (d) (g) "Nonprofit fraternal organization" means any organization
41 within this state which exists for the common benefit, brotherhood,
42 or other interests of its members and is authorized by its written
43 constitution, charter, articles of incorporation or bylaws to engage

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2 determined by the secretary of revenue to be organized and operated
3 as a bona fide fraternal organization and which has been exempted
4 from the payment of federal income taxes as provided by section
5 501(c)(8) or section 501(c)(10) of the federal internal revenue code of
6 1954, as amended, or determined to be organized and operated as
7 a bona fide nonprofit fraternal organization by the secretary of
8 revenue.

9 (e) (i) "Nonprofit educational organization" means any public or
10 private elementary or secondary school or institution of higher ed-
11 ucation which has been determined by the secretary of revenue to
12 be organized and operated as a bona fide educational organization
13 and which has been exempted from the payment of federal income
14 taxes as provided by section 501(c)(3) of the federal internal revenue
15 code of 1954, as amended, or determined to be organized and op-
16 erated as a bona fide nonprofit educational organization by the sec-
17 retary of revenue.

18 (f) (i) "Nonprofit veterans' organization" means any organization
19 within this state or any branch, lodge, or chapter of a national or
20 state organization within this state, the membership of which consists
21 exclusively of individuals who qualify for membership because they
22 were or are members of the armed services or forces of the United
23 States, or an auxiliary unit or society of such a nonprofit veterans'
24 organization the membership of which consists exclusively of indi-
25 viduals who were or are members of the armed services or forces
26 of the United States, or are cadets, or are spouses, widows or wid-
27 ows of individuals who were or are members of the armed services
28 or forces of the United States, and of which no part of the net
29 earnings inures to the benefit of any private shareholder or individual
30 member of such organization, and has been determined by the sec-
31 retary of revenue to be organized and operated as a bona fide vet-
32 erans' organization and which has been exempted from the payment
33 of federal income taxes as provided by section 501(c)(4) or 501(c)(19)
34 of the federal internal revenue code of 1954, as amended, or de-
35 termined to be organized and operated as a bona fide nonprofit
36 veterans' organization by the secretary of revenue.

37 (g) (i) "Lessor" means the owner, co-owner, lessor or sublessor
38 of premises upon which a licensee is permitted to manage, operate
39 or conduct games of bingo, whether or not a written lease has been
40 entered into and submitted to the secretary of revenue as required
41 in subsection (c) of K.S.A. 79-4703 and amendments thereto, and
42 includes all political subdivisions and other public agencies.

43 (h) (k) "Premises" means any room, hall, building, enclosure or

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1 outdoor area used for the management, operation or conduct of a
2 game of bingo.

3 Sec. 2. K.S.A. 79-4706 is hereby amended to read as follows:
4 79-4706. Games of bingo managed, operated or conducted by or-
5 ganizations licensed under the provisions of this act shall be managed,
6 operated or conducted subject to rules and regulations adopted by
7 the secretary of revenue and the following restrictions:

8 (a) The entire gross receipts received by any such organization
9 from the operation or conduct of games of bingo, except that portion
10 utilized for the payment of the cost of prizes and license fees and
11 taxes imposed under the provisions of this act, shall be used exclu-
12 sively for the lawful purposes of the organization permitted to con-
13 duct that game.

14 (b) No person except a bona fide member or spouse of a bona
15 fide member of the sponsoring organization or parent organization
16 or an auxillary unit or society of such sponsoring organization may
17 participate in the management, conduct or operation of any game
18 of bingo.

19 (c) No lessor, any employee of any such lessor or any employee,
20 officer or shareholder of a for profit corporation which is the lessor,
21 shall play any game of bingo on premises leased by any such lessor
22 or shall be responsible for or assist in the management, operation
23 or conduct of any game of bingo on such premises.

24 (d) No person may participate in the management, conduct or
25 operation of bingo games if such person, within five years prior to
26 such participation, has been convicted of or pleaded guilty or *nolo*
27 *contendere* to any felony or illegal gambling activity or purchased a
28 tax stamp for wagering or gambling activity.

29 (e) No person may receive any remuneration or profit for par-
30 ticipating in the management, conduct or operation of any game of
31 bingo.

32 (f) The aggregate value of all prizes including the retail value of
33 all merchandise awarded or offered by any such organization on any
34 single day to winners of games of *call bingo* shall not exceed \$1,200,
35 and any prize awarded in cash of \$100 or more shall be paid by a
36 check drawn on the bingo trust bank account of the licensee.

37 (g) The total number of *call bingo* games managed, operated or
38 conducted by any licensee in any one day shall not exceed 25 and
39 not more than five of such games shall be jackpot or special games
40 and not more than one licensee may conduct bingo games at a given
41 location or registered premises in any one calendar day.

42 (h) The prize awarded in any one regular *call bingo* game shall
43 not exceed \$50 in cash or its equivalent and such prize in any one

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1 jackpot or special call bingo game shall not exceed \$500 in cash or
2 its equivalent.

3 (i) The retail value of any merchandise received by a winner of
4 a bingo game shall be considered as the cash value for the purposes
5 of determining the value of the prize.

6 (i) (j) The charge made for a single card to play in call bingo
7 games other than jackpot or special games shall not exceed \$1 and
8 such card shall be valid for all regular games conducted or operated
9 by the licensee on a particular day; the charge made for a single
10 card to play in any single jackpot or special game shall not exceed
11 \$1. Paper game program booklets with multiple bingo cards printed
12 on the pages thereof are permitted so long as the charge made for
13 a regular game program booklet does not exceed \$1, except that the
14 charge for such game program booklet may be increased by an
15 amount not exceeding \$1 for each single jackpot or special game in
16 the game program booklet. *The charge made for a single instant*
17 *bingo card shall not exceed \$1.*

substitute

(j) The charge made for a single reusable card or equivalent number of disposable paper cards to play in call bingo games other than jackpot or special games shall not exceed \$1 and such reusable card or equivalent number of disposable paper cards shall be valid for all such regular call bingo games conducted or operated by the licensee on a particular day. The charge made for a single reusable card or disposable paper card to play in any single jackpot or special call bingo game shall not exceed \$1. The charge made for a single instant bingo ticket shall not exceed \$1.

18 (j) (k) Games of bingo shall not be managed, operated or con-
19 ducted by any licensee on more than two calendar days in any one
20 week.

21 (k) (l) All licenses issued under the provisions of this act shall
22 be issued in the name of the organization licensed.

23 (l) (m) Each licensee shall keep a record of all bingo games
24 managed, operated or conducted by it for a period of three years
25 following the date the game is managed, operated or conducted.

26 (m) (n) No person under the age of 18 years shall participate in
27 the management, operation or conduct of any game of bingo man-
28 aged, operated or conducted under the provisions of this act.

29 (n) (o) A lessor of premises used for the management, operation
30 or conduct of bingo or a licensee may not advertise bingo games
31 except to the extent and in the manner prescribed by the rules and
32 regulations adopted by the secretary of revenue, and any advertise-
33 ment of any bingo game by or on behalf of such lessor or licensee
34 shall specify the organization which is managing, operating or con-
35 ducting the bingo game. For the purposes of this act and rules and
36 regulations of the secretary of revenue, announcement of the can-
37 cellation of a game of bingo shall not be considered to be an
38 advertisement.

39 (o) (p) No lessor of premises used for the management, operation
40 or conduct of any games of bingo or any licensee shall offer an
41 opportunity to participate in a game of chance, drawing, contest,
42 door prize, game, test of skill, lottery or any similar activity as an
inducement to participate in games of bingo nor as a bingo prize or

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1 preliminary to the awarding of a bingo prize.

2 (p) (q) No licensee shall manage, operate or conduct bingo on
3 any leased premises or with leased equipment unless all of the terms
4 and conditions of rental or use, including the rental of chairs, bingo
5 equipment, tables, security guards, janitor service or any other serv-
6 ices, are set forth in a lease submitted, approved and on file with
7 the secretary of revenue.

8 (q) (r) No premises shall be used for the management, operation
9 or conduct of bingo games on more than three calendar days in any
10 one week.

11 (r) (s) No premises shall be subdivided to provide multiple prem-
12 ises where games of bingo are managed, operated or conducted,
13 whether or not the multiple premises have different addresses.

14 (s) (t) No game of bingo shall be managed, operated or conducted
15 on leased premises if at any time during the immediately preceding
16 44 hours the premises, or any leased premises within 1,000 feet of
17 them, have been used for the management, operation or conduct of
18 a game of bingo.

19 (t) (u) Every licensee who has gross receipts of \$1,000 or more
20 received from participation in games, admission fees or charges and
21 from any other source directly related to the operation or conduct
22 of any bingo games in any calendar month shall maintain a bingo
23 trust bank account into which all such receipts are deposited daily
24 and from which all payments are made relating to the management,
25 operation or conduct of any bingo games, except payment of prizes
26 of less than \$100. Having once established such bingo trust bank
27 account, the licensee shall continue to make deposits of all receipts
28 therein. Every licensee shall notify the secretary of revenue of the
29 name of the bank in which the bingo trust bank account is main-
30 tained, together with the number and name of the account. Every
31 licensee who maintains a bingo trust bank account shall maintain a
32 complete record of all deposits and withdrawals from such bank
33 account and the same shall be available to the secretary of revenue
34 or the secretary's agents or investigators to audit at any reasonable
35 time.

36 (u) (v) The records required under subsection (t) are in addition
37 to all other records required to be kept by the licensee by statute
38 or rules and regulations. The records required by subsection (t) shall
39 be maintained in the same place as all other records required to be
40 kept by the licensee.

41 (v) No instant bingo ~~card~~ shall be sold by a licensee ~~prior to~~
42 ~~the first sale by the licensee of call bingo cards for the day or after~~
43 ~~the termination of the last game of call bingo operated or conducted~~

ticket

more than one hour prior to the start of the
first game of call bingo

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1 by the licensee for such calendar day.

2 ~~New Sec. 3. (a) There is hereby levied upon the sale, lease or~~
3 ~~distribution of instant bingo cards by instant bingo distributors a tax~~
4 ~~of \$15 per box of instant bingo cards sold or otherwise distributed~~
5 ~~to licensees authorized to operate and conduct bingo games pursuant~~
6 ~~to this act. Such tax shall be paid by the instant bingo distributor.~~

7 (b) The director of taxation shall prescribe and have available for
8 sale such stamps as necessary for the payment of the tax imposed
9 by this section. Such stamps shall be affixed to each box of instant
10 bingo cards sold or otherwise distributed to licensees authorized to
11 operate and conduct bingo games pursuant to this act.

12 (c) No instant bingo distributor shall sell or otherwise distribute
13 to any licensee authorized to operate and conduct bingo games pur-
14 suant to this act any instant bingo cards unless such cards are con-
15 tained in a box to which there is affixed one or more stamps
16 evidencing payment of the tax levied by this section. No licensee
17 authorized to operate and conduct bingo games pursuant to this act
18 shall acquire, possess, sell or give away any instant bingo cards unless
19 such cards are contained in a box to which one or more such stamps
20 are affixed.

21 (d) No box of instant bingo cards sold or distributed to a licensee
22 authorized to operate and conduct bingo pursuant to this act shall
23 contain more than 3,800 instant bingo cards. No such licensee shall
24 acquire, possess, sell or give away any bingo cards unless contained
25 in a box which complies with this subsection.

26 (e) All instant bingo cards sold to licensees shall bear on the face
27 thereof the amount for which such instant bingo cards will be sold
28 by the licensee, and the business name of the instant bingo dis-
29 tributor shall be printed on the inventory statement, commonly
30 called the flare, enclosed in a box. Each box shall contain cards
31 printed in such a manner as to insure that at least 60% of the gross
32 revenues generated by the ultimate sale of such cards shall be re-
33 turned to the final purchasers of such cards, and no box may be
34 opened until all cards contained in a previously opened box of the
35 same description have been sold.

36 (f) The secretary of revenue may adopt rules and regulations
37 regarding the affixing of tax stamps provided for by this section,
38 redemption of unused stamps and refunds therefor, and such other
39 matters as reasonably necessary to administer and enforce the pro-
40 visions of this section.

41 (g) This section shall be part of and supplemental to K.S.A. 70-
42 ~~4701 through 70-4711, and amendments thereto.~~

43 Sec. 4. K.S.A. 70-4710 is hereby amended to read as follows:

(x) No licensee shall purchase disposable paper call bingo cards or instant bingo tickets from any person or entity other than a bingo card distributor registered by the secretary of revenue as provided in this act.

(y) All instant bingo tickets sold or distributed to licensees shall bear on the face thereof the amount for which such tickets will be sold by the licensee, the business name of the bingo card distributor, the Kansas bingo license number of the licensee to which sold, and a unique serial number which shall not repeat less than every five years. All instant bingo tickets shall be sold or distributed in boxes, and each such box shall contain tickets printed in such a manner as to insure that at least 60% of the gross revenues generated by the ultimate sale of all tickets from such box shall be returned to the final purchasers of such tickets. No box of instant bingo tickets may be opened by a licensee unless all tickets contained in a previously opened box of the same description have been sold.

See substitute New Sec. 3
at end of bill.

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1 79-4710. (a) All amounts received by or for the secretary of revenue
2 from license fees pursuant to ~~K.S.A. 79-4703~~ and amendments and registration
3 thereto shall be remitted to the state treasurer and the state treasurer this act
4 shall deposit all of such moneys in the state treasury and, except as
5 otherwise provided by K.S.A. 79-4711 and amendments thereto for
6 maintenance of the bingo refund fund, shall credit the same to the
7 state ~~general~~ fund. bingo regulation

8 (b) All amounts received by or for the secretary of revenue from
9 the tax taxes levied pursuant to K.S.A. 79-4704 ~~and section 2~~, and
10 amendments thereto, shall be remitted to the state treasurer and
11 the state treasurer shall deposit all of such moneys in the state
12 treasury. There is hereby created, in the state treasury, the state
13 bingo regulation fund and the county and city bingo tax fund. Subject
14 to the maintenance requirements of the bingo refund fund under
15 K.S.A. 79-4711 and amendments thereto, 1/3 of each deposit shall
16 be credited to the state general fund, 1/3 of each deposit to the state
17 bingo regulation fund and the remaining 1/3 of such deposit shall be
18 credited to the county and city bingo tax fund. Moneys in the state
19 bingo regulation fund shall be expended for the enforcement of the
20 bingo statutes in article 47 of chapter 79 of Kansas Statutes Annotated
21 and rules and regulations adopted pursuant thereto. Such expen-
22 ditures shall be made upon vouchers approved by the secretary of
23 revenue or a person designated by the secretary.

24 (c) All moneys deposited in the county and city bingo tax fund
25 shall be returned to the counties and cities in which the locations
26 and registered premises are located at a time or times fixed by the
27 secretary but not less than once each year. If the locations and
28 registered premises are located within the corporate limits of a city,
29 all taxes collected therefrom shall be remitted to the city treasurer
30 of such city and credited to the city general fund. If the locations
31 and registered premises are located within the unincorporated area
32 of any county, all taxes collected therefrom shall be remitted to the
33 county treasurer of such county and credited to the county general
34 fund. Moneys distributed to cities and counties under this section
35 shall be used to assist in the enforcement of the bingo laws of this
36 state.

37 Sec. 5. K.S.A. 79-4711 is hereby amended to read as follows:
38 79-4711. There is hereby created the bingo refund fund in the state
39 treasury. The bingo refund fund shall be a refund clearing fund and
40 refunds of the fees imposed under K.S.A. 79-4703 ~~and amendments~~
41 ~~thereto~~ and of the tax taxes levied under K.S.A. 79-4704 ~~and section~~
42 ~~2~~ ~~and amendments thereto~~, shall be made from this fund. The bingo
43 refund fund shall be maintained by the secretary of revenue from

Fiscal impact:
Currently, license fees
and registered premises
fee = approx. \$17,000/year

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1 the fees received under ~~K.S.A. 79-4703~~ and amendments thereto
2 and the tax taxes collected under K.S.A. 79-4704 ~~and section 2~~, and
3 amendments thereto, in an amount sufficient for such refunds of not
to exceed ten thousand dollars (\$10,000) \$10,000.

license and registration
this act

4 Sec. 6. K.S.A. 79-4701, ~~79-4706, 79-4710 and 79-4711~~ are hereby
5 repealed.

79-4704, 79-4705,

6 Sec. 7. This act shall take effect and be in force from and after
7 its publication in the statute book.
8

New Sec. ____ If any provision of this act or the application thereof to any person or circumstances is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the act which can be given effect, without the unconstitutional or invalid provision or application, and, to this end, the provisions of this act are severable.

New Sec. 3. (a) No person or entity shall sell or otherwise distribute any disposable paper call bingo cards or instant bingo tickets to any organization licensed under the provisions of this act unless and until such person or entity has made application for and has been issued a bingo card distributor registration certificate by the secretary of revenue. Application for registration shall be accompanied by a fee in the amount of \$500 and shall be made upon forms prescribed by the secretary.

(b) Each bingo card distributor registration certificate shall expire at midnight on June 30 following its date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$500 and shall be made upon forms prescribed by the secretary.

(c) The secretary of revenue shall establish by rule and regulation reasonable criteria for approval of bingo card distributors. The secretary of revenue may refuse to register a bingo card distributor if any owner, manager or employee thereof has, within five years prior to registration, been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling violation in this or any other jurisdiction.

(d) All bingo card distributors shall maintain for a period of not less than three years full and complete records of all disposable paper call bingo cards and instant bingo tickets sold to licensees within this state. Such records shall be made available for inspection by any authorized representative of the secretary of revenue.

79-4704. Tax upon gross receipts received from participation charges and admission fees; tax in addition to license fee. For the purpose of providing revenue which may be used by the state, counties and cities and for the privilege of operating or conducting games of bingo under the authority of this act, there is hereby levied and there shall be collected and paid by each licensee a tax at the rate of three percent (3%) upon the gross receipts received by the licensee from charges for participation in ~~such~~ games and any admission fees or charges in connection therewith. The tax imposed by this section shall be in addition to the license fee imposed under K.S.A. 79-4703. _____ (a)

_____ call bingo

(b) by each bingo card distributor a tax at a rate of 1% upon the total of the printed retail sales price of all tickets in each box of instant bingo tickets sold by the distributor to each licensee conducting instant bingo games within the state of Kansas. The bingo card distributor shall include the tax due under this subsection in the sales price of each box paid by the licensee, and such tax shall be itemized separately on the invoice provided to the licensee.

79-4705. Returns and tax to director of taxation; forms, contents; extension of time; penalties and interest; waiver or reduction. (a) On dates prescribed by the director of taxation, every ~~organization~~ operating or conducting a game of bingo shall make a return to the director of taxation upon forms prescribed by the director stating the name and address of the organization, the amount of the gross receipts received from charges for admission or participation in such game during the preceding reporting period, and such other information as the director may deem necessary. The ~~organization~~ making the return shall, at the time of making such return, pay to the director of taxation the amount of the tax then due under K.S.A. 79-4704. The director may extend the time for making returns and payment of such taxes for a period not exceeding sixty (60) days under rules and regulations adopted by the secretary of revenue.

licensee

the number of each denomination of instant bingo tickets sold during the preceding reporting period,

licensee

(b) On dates prescribed by the director of taxation, every bingo card distributor shall make a return to the director of taxation upon forms prescribed by the director, listing the number of instant bingo tickets sold to each licensee, the amount of the retail sales price of such tickets, the number of disposable paper call bingo faces sold to each licensee, and such other information as the director may deem necessary. The distributor making the return shall, at the time of making such return, pay to the director of taxation the amount of tax then due on the instant bingo tickets under K.S.A. 79-4704.

(c) ~~(b)~~ If any ~~organization~~ authorized to manage, operate, or conduct bingo games under the laws of the state of Kansas fails to make a return, or to pay any tax, when required to do so by the provisions of this act, except in the case of an extension of time granted by the director of taxation, there shall be added to the tax determined to be due a penalty of twenty-five percent of the amount of such tax, together with interest at the rate per month prescribed by K.S.A. 79-2968(a) from the date the tax was due until paid.

licensee or bingo card distributor

(d) ~~(c)~~ If any tax determined and assessed by the director of taxation is unpaid due to fraud with intent to evade the tax imposed by this act, there shall be added thereto a penalty of fifty percent of the amount of such tax, together with interest at the rate per month prescribed by K.S.A. 79-2968(a) from the date the tax was due until paid.

(e) ~~(d)~~ Whenever, in the judgment of the director of taxation, the failure of any ~~organization~~ to comply with the provisions of ~~subsection (a)~~ of this section, was due to reasonable cause, the director of taxation may, in the director's discretion, waive or reduce any of the penalties or interest imposed by this section, upon making a record of the reason therefor.

licensee or bingo card distributor
subsections (a) or (b)

(f) ~~(e)~~ The penalties imposed under this section shall be in addition to, and in no way shall abridge, supersede, or contravene, other penalties imposed by this act for violation of the provisions of this act.