

MAY 6, 1992
Approved Edward F. Reilly, Jr.

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Sen. Edward F. Reilly, Jr. at 11:00 a.m. on March 18, 1992 in Room 254-E of the Capitol.

All members were present.

Committee staff present:

Mary Torrence, Office of Revisor of Statutes
Lynn Holt, Legislative Research Department
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Jim Conant, Division of Alcoholic Beverage Control;
Tuck Duncan, Kansas Wine and Spirits Wholesalers Assoc.;
Rebecca Rice, Kansas Retail Liquor Dealers Assoc.
Dana Nelson, Executive Director, Kansas Racing Commission.

Others attending: See attached list

Sen. Reilly called the meeting to order and directed the committees' attention to SB 567. He recounted the fact that this bill's author, Sen. Hayden, appeared before the committee to explain the circumstances - a retail liquor owner ill with cancer, who could not leave the business to his wife because she was not a citizen of the United States. He then called on Jim Conant, Alcoholic Beverage Control, who presented amendments (Attachment 1) to the committee. Committee members asked numerous questions specifically dealing with the trust and inheritance question, in-state residency requirements, restrictions for licensing retailers and the prohibition against corporate licensure. One committee member stated that a subsidiary store of a large corporation sold packaged liquor in his district.

Tuck Duncan provided additional information to the committee regarding retail liquor laws, the trust situation and how living trusts can be utilized in this regard and how that impacts federal estate taxes. He stated that we need to prevent the situation which Sen. Hayden's constituent is in and also stated the retirement provision is needed and went on to caution the committee against passing legislation which would impose the capital gains tax. He recommended the committee adopt two of the provisions presented by Mr. Conant.

Rebecca Rice stated the retailers are extremely concerned about the corporate language and would like to see the provisions for trusts added, but are less than enthusiastic about the retirement issue. She mentioned the keg registration amendment, which came from the House on another bill, and said the retailers could tolerate this bill and amendments recommended by Mr. Conant, provided the corporation language is removed. Sen. Reilly asked Ms. Rice if the retailers would be pacified if the committee would strike out the corporate language, but adopt the ABC language presented by Mr. Conant to establish a trust for estate planning, and add a time limit provision. Mr. Conant had no objection to the time limit provision.

Sen. Morris reminded the committee that this bill started out as

a small bill to help a constituent and recounted the number of liquor laws passed. He recommended the committee kill the bill, but Sen. Vidricksen stated he disagreed and recommended amendments be adopted. Sen. Morris moved SB 567 be reported adversely, and it was seconded by Sen. Walker. Sen. Vidricksen made a substitute motion for adoption of the ABC language, but strike the corporate language. Sen. Strick seconded the substitute motion. The chairman was in doubt on the vote of the substitute motion, and a division was called. The vote was: Yes - 5; No - 4. The motion passed.

Sen. Vidricksen moved the bill be recommended for passage as amended, and Sen. Strick seconded the motion. The motion passed.

The Chairman called on the subcommittee working on SB 703, consisting of Sens. Vidricksen, Ward and Bond. Sen. Vidricksen stated that the subcommittee chose to have Dana Nelson appear before the full committee with proposed language (Attachment 2) to the bill. Mr. Nelson pointed out changes which appear on Pages 12, 21, 24, 25 and 27, and stated the commission is seeking guidance from this committee. Discussion centered around the areas of occupational licenses, juvenile records and adjudication, licensed concessionaire and totalisator. Sen. Ward clarified the intent of a motion he made previously regarding locations where court cases can be tried to include the counties of Sedgwick, Shawnee and Wyandotte. Sen. Bond discussed the questions of stockholders' interest and the language necessary to provide the intent of the committee.

Sen. Reilly announced staff will distribute additional information on HB 2778 to committee members at their desks in the Senate. He asked for a volunteer to carry HB 2778 on the Senate floor, and Sen. Strick stated he will carry the bill. Sen. Reilly also announced plans for a committee breakfast at the Top of the Tower.

Meeting adjourned at 12:05.

1 Section 1. K.S.A. 1991 Supp. 41-102 is hereby amended to read as follows: 41-
2 102. As used in this act, unless the context clearly requires otherwise:

3 (a) "Alcohol" means the product of distillation of any fermented liquid,
4 whether rectified or diluted, whatever its origin, and includes synthetic ethyl
5 alcohol but does not include denatured alcohol or wood alcohol.

6 (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or
7 solid, patented or not, containing alcohol, spirits, wine or beer and capable of
8 being consumed as a beverage by a human being, but shall not include any
9 cereal malt beverage.

10 (c) "Beer" means a beverage, containing more than 3.2% alcohol by weight,
11 obtained by alcoholic fermentation of an infusion or concoction of barley, or
12 other grain, malt and hops in water and includes beer, ale, stout, lager beer,
13 porter and similar beverages having such alcoholic content.

14 (d) "Caterer" has the meaning provided by K.S.A. 41-2601 and amendments
15 thereto.

16 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701 and
17 amendments thereto.

18 (f) "Club" has the meaning provided by K.S.A. 41-2601 and amendments
19 thereto.

20 (g) "Director" means the director of alcoholic beverage control of the
21 department of revenue.

22 (h) "Distributor" means the person importing or causing to be imported
23 into the state, or purchasing or causing to be purchased within the state,
24 alcoholic liquor for sale or resale to retailers licensed under this act or cereal
25 malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702 and
26 amendments thereto.

27 (i) "Domestic beer" means beer which contains not more than 8% alcohol
28 by weight and which is manufactured from agricultural products grown in
29 this state.

30 (j) "Domestic table wine" means wine which contains not more than 14%
31 alcohol by volume and which is manufactured without rectification or
32 fortification from agricultural products grown in this state.

33 (k) "Drinking establishment" has the meaning provided by K.S.A. 41-2601
34 and amendments thereto.

35 (l) "Farm winery" means a winery licensed by the director to manufacture,
36 store and sell domestic table wine.

37 (m) "Manufacture" means to distill, rectify, ferment, brew, make, mix,
38 concoct, process, blend, bottle or fill an original package with any alcoholic
39 liquor, beer or cereal malt beverage.

40 (n) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier,
41 wine maker, blender, processor, bottler or person who fills or refills an
42 original package and others engaged in brewing, fermenting, distilling,
43 rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

44 (2) "Manufacturer" does not include a microbrewery or a farm winery.

45 (o) "Microbrewery" means a brewery licensed by the director to
46 manufacture, store and sell domestic beer.

47 (p) "Minor" means any person under 21 years of age.

48 (q) "Nonbeverage user" means any manufacturer of any of the products set
49 forth and described in K.S.A. 41-501 and amendments thereto, when the
50 products contain alcohol or wine, and all laboratories using alcohol for
51 nonbeverage purposes.

52 (r) "Original package" means any bottle, flask, jug, can, cask, barrel, keg,
53 hogshead or other receptacle or container whatsoever, used, corked or capped,

1 sealed and labeled by the manufacturer of alcoholic liquor, to contain and to
2 convey any alcoholic liquor.

3 (s) "Person" means any natural person, corporation, partnership, *trust* or
4 association.

5 (t) "Primary American source of supply" means the manufacturer, the
6 owner of alcoholic liquor at the time it becomes a marketable product or the
7 manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot
8 be secured directly from such manufacturer or owner by American
9 wholesalers, is the source closest to such manufacturer or owner in the
10 channel of commerce from which the product can be secured by American
11 wholesalers.

12 (u) (1) "Retailer" means a person who sells at retail, or offers for sale at
13 retail, alcoholic liquors.

14 (2) "Retailer" does not include a microbrewery or a farm winery.

15 (v) "Sale" means any transfer, exchange or barter in any manner or by
16 any means whatsoever for a consideration and includes all sales made by any
17 person, whether principal, proprietor, agent, servant or employee.

18 (w) "Salesperson" means any natural person who:

19 (1) Procures or seeks to procure an order, bargain, contract or agreement
20 for the sale of alcoholic liquor or cereal malt beverage; or

21 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
22 beverage, or in promoting the business of any person, firm or corporation
23 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
24 beverage, whether the seller resides within the state of Kansas and sells to
25 licensed buyers within the state of Kansas, or whether the seller resides
26 without the state of Kansas and sells to licensed buyers within the state of
27 Kansas.

28 (x) "Secretary" means the secretary of revenue.

29 (y) (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or
30 consumption and not for resale in any form and sales to clubs, licensed
31 drinking establishments, licensed caterers or holders of temporary permits.

32 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a
33 distributor, a microbrewery, a farm winery, a licensed club, a licensed
34 drinking establishment, a licensed caterer or a holder of a temporary permit.

35 (z) "To sell" includes to solicit or receive an order for, to keep or expose for
36 sale and to keep with intent to sell.

37 (aa) "Spirits" means any beverage which contains alcohol obtained by
38 distillation, mixed with water or other substance in solution, and includes
39 brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when
40 rectified, blended or otherwise mixed with alcohol or other substances.

41 (bb) "Supplier" means a manufacturer of alcoholic liquor or cereal malt
42 beverage or an agent of such manufacturer, other than a salesperson.

43 (cc) "Temporary permit" has the meaning provided by K.S.A. 41- 2601 and
44 amendments thereto.

45 (dd) "Wine" means any alcoholic beverage obtained by the normal
46 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
47 other agricultural products, including such beverages containing added
48 alcohol or spirits or containing sugar added for the purpose of correcting
49 natural deficiencies.

1 Sec. 2. K.S.A. 1991 Supp. 41-311 is hereby amended to read as follows: 41-
2 311. (a) No license of any kind shall be issued pursuant to the liquor control
3 act to a person:

4 (1) Who has not been a citizen of the United States for at least 10 years;

5 (2) who has been convicted of a felony under the laws of this state, any
6 other state or the United States;

7 (3) who has had a license revoked for cause under the provisions of this act
8 or who has had any license issued under the cereal malt beverage laws of any
9 state revoked for cause except that a license may be issued to a person whose
10 license was revoked for the conviction of a misdemeanor at any time after the
11 lapse of 10 years following the date of the revocation;

12 (4) who has been convicted of being the keeper or is keeping a house of
13 prostitution or has forfeited bond to appear in court to answer charges of
14 being a keeper of a house of prostitution;

15 (5) who has been convicted of being a proprietor of a gambling house,
16 pandering or any other crime opposed to decency and morality or has
17 forfeited bond to appear in court to answer charges for any of those crimes;

18 (6) who is not at least 21 years of age;

19 (7) who, other than as a member of the governing body of a city or county,
20 appoints or supervises any law enforcement officer, who is a law enforcement
21 official or who is an employee of the director;

22 (8) who intends to carry on the business authorized by the license as agent
23 of another;

24 (9) who at the time of application for renewal of any license issued under
25 this act would not be eligible for the license upon a first application, except as
26 provided by subsection (a)(12);

27 (10) who is the holder of a valid and existing license issued under article 27
28 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and
29 does surrender the license to the officer issuing the same upon the issuance to
30 the person of a license under this act, except that a retailer licensed pursuant
31 to K.S.A. 41-2702 and amendments thereto shall be eligible to receive a
32 retailer's license under the Kansas liquor control act;

33 (11) who does not own the premises for which a license is sought, or does
34 not have a written lease thereon for at least 3/4 of the period for which the
35 license is to be issued; or

36 (12) whose spouse would be ineligible to receive a license under this act for
37 any reason other than citizenship, residence requirements or age, except that
38 this subsection (a)(12) shall not apply in determining eligibility for a renewal
39 license.

40 (b) No retailer's license shall be issued to:

41 (1) A person who is not a resident of this state;

42 (2) a person who has not been a resident of this state for at least four years
43 immediately preceding the date of application;

44 (3) a person who has beneficial interest in the manufacture, preparation
45 or wholesaling of alcoholic beverages;

46 (4) a person ~~or copartnership or association~~ who has beneficial interest in
47 any other retail establishment licensed under this act;

48 (5) a copartnership, unless all of the copartners are qualified to obtain a
49 license; or

50 (6) a corporation, *if any officer, director or stockholder of the corporation*
51 *would be ineligible to receive a retailer's license for any reason. It shall be*
52 *unlawful for any stockholder of a corporation licensed as a retailer to transfer*
53 *any stock in the corporation to any person who would be ineligible to receive*
54 *a retailer's license for any reason, and any such transfer shall be null and*

1 void, except that: (A) If any stockholder owning stock in the corporation dies
2 and an heir or devisee to whom stock of the corporation descends by descent
3 and distribution or by will is ineligible to receive a retailer's license, the legal
4 representatives of the deceased stockholder's estate and the ineligible heir or
5 devisee shall have 14 months from the date of the death of the stockholder
6 within which to sell the stock to a person eligible to receive a retailer's
7 license, any such sale by a legal representative to be made in accordance with
8 the provisions of the probate code; or (B) if the stock in any such corporation
9 is the subject of any trust and any trustee or beneficiary of the trust who is 21
10 years of age or older is ineligible to receive a retailer's license, the trustee,
11 within 14 months after the effective date of the trust, shall sell the stock to a
12 person eligible to receive a retailer's license and hold and disburse the
13 proceeds in accordance with the terms of the trust. If any legal
14 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
15 stock as required by this subsection, the stock shall revert to and become the
16 property of the corporation, and the corporation shall pay to the legal
17 representatives, heirs, devisees or trustees the book value of the stock. During
18 the period of 14 months prescribed by this subsection, the corporation shall
19 not be denied a retailer's license or have its retailer's license revoked if the
20 corporation meets all of the other requirements necessary to have a retailer's
21 license;

22 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
23 receive a license under this act for any reason, except that the provisions of
24 subsection (a)(6) shall not apply in determining the eligibility of a
25 beneficiary.

26 (c) No manufacturer's license shall be issued to:

27 (1) A corporation, if any officer or director thereof, or any stockholder
28 owning in the aggregate more than 25% of the stock of the corporation would
29 be ineligible to receive a manufacturer's license for any reason other than
30 citizenship and residence requirements;

31 (2) a copartnership, unless all of the copartners shall have been residents
32 of this state for at least five years immediately preceding the date of
33 application and unless all the members of the copartnership would be eligible
34 to receive a manufacturer's license under this act;

35 (3) an individual who is not a resident of this state; or

36 (4) an individual who has not been a resident of this state for at least five
37 years immediately preceding the date of application.

38 (d) No distributor's license shall be issued to:

39 (1) A corporation, if any officer, director or stockholder of the corporation
40 would be ineligible to receive a distributor's license for any reason. It shall be
41 unlawful for any stockholder of a corporation licensed as a distributor to
42 transfer any stock in the corporation to any person who would be ineligible to
43 receive a distributor's license for any reason, and any such transfer shall be
44 null and void, except that: (A) If any stockholder owning stock in the
45 corporation dies and an heir or devisee to whom stock of the corporation
46 descends by descent and distribution or by will is ineligible to receive a
47 distributor's license, the legal representatives of the deceased stockholder's
48 estate and the ineligible heir or devisee shall have 14 months from the date of
49 the death of the stockholder within which to sell the stock to a person eligible
50 to receive a distributor's license, any such sale by a legal representative to be
51 made in accordance with the provisions of the probate code; or (B) if the stock
52 in any such corporation is the subject of any trust and any trustee or
53 beneficiary of the trust who is 21 years of age or older is ineligible to receive a
54 distributor's license, the trustee, within 14 months after the effective date of

1 the trust, shall sell the stock to a person eligible to receive a distributor's
2 license and hold and disburse the proceeds in accordance with the terms of the
3 trust. If any legal representatives, heirs, devisees or trustees fail, refuse or
4 neglect to sell any stock as required by this subsection, the stock shall revert
5 to and become the property of the corporation, and the corporation shall pay
6 to the legal representatives, heirs, devisees or trustees the book value of the
7 stock. During the period of 14 months prescribed by this subsection, the
8 corporation shall not be denied a distributor's license or have its distributor's
9 license revoked if the corporation meets all of the other requirements
10 necessary to have a distributor's license;

11 (2) a copartnership, unless all of the copartners are eligible to receive a
12 distributor's license;

13 (3) an individual who is not a resident of this state; or

14 (4) an individual who has not been a resident of this state for at least 10
15 years immediately preceding the date of application, except that:

16 (A) A wholesaler of cereal malt beverages properly licensed on September
17 1, 1948, shall be eligible for a beer distributor's license; and

18 (B) a person who has been a resident of the state for at least five years
19 immediately preceding the date of application shall be eligible for a beer
20 distributor's license.

21 (e) No nonbeverage user's license shall be issued to a corporation, if any
22 officer, manager or director of the corporation or any stockholder owning in
23 the aggregate more than 25% of the stock of the corporation would be
24 ineligible to receive a nonbeverage user's license for any reason other than
25 citizenship and residence requirements.

26 (f) No microbrewery license or farm winery license shall be issued to a:

27 (1) Person who is not a resident of this state;

28 (2) person who has not been a resident of this state for at least four years
29 immediately preceding the date of application;

30 (3) person who has beneficial interest in the manufacture, preparation or
31 wholesaling of alcoholic beverages other than that produced by such brewery
32 or winery;

33 (4) person, copartnership or association which has beneficial interest in
34 any retailer licensed under this act or under K.S.A. 41-2702 and amendments
35 thereto;

36 (5) copartnership, unless all of the copartners are qualified to obtain a
37 license; or

38 (6) corporation, unless stockholders owning in the aggregate 50% or more
39 of the stock of the corporation would be eligible to receive such license and all
40 other stockholders would be eligible to receive such license except for reason
41 of citizenship or residency.

42 (g) *the provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (d)(4),*
43 *(f)(1), or (f)(2) shall not apply in determining eligibility for a renewal*
44 *license, provided that the applicant has appointed a citizen of the United*
45 *States, and resident of Kansas, as its agent and filed with the director a duly*
46 *authenticated copy of a duly executed power of attorney, authorizing the agent*
47 *to accept service of process from the director and the courts of this state and to*
48 *exercise full authority, control and responsibility for the conduct of all*
49 *business and transactions within the state relative to alcoholic liquor and the*
50 *business licensed. The agent must be satisfactory to and approved by the*
51 *director, except that the director shall not approve any person:*

52 (1) *who has been convicted of a felony under the laws of this state, any*
53 *other state or the United States;*

1 (2) who has had a license revoked for cause under the provisions of this act
2 or who has had any license issued under the cereal malt beverage laws of any
3 state revoked for cause except that a person may be appointed as an agent
4 whose license was revoked for the conviction of a misdemeanor at any time
5 after the lapse of 10 years following the date of the revocation;

6 (3) who has been convicted of being the keeper or is keeping a house of
7 prostitution or has forfeited bond to appear in court to answer charges of
8 being a keeper of a house of prostitution;

9 (4) who has been convicted of being a proprietor of a gambling house,
10 pandering or any other crime opposed to decency and morality or has
11 forfeited bond to appear in court to answer charges for any of those crimes;

12 (5) who is not at least 21 years of age;

13
14 Sec. 3. K.S.A. 1991 Supp.41-2623 is hereby amended to read as follows: 41-
15 2623. (a) No license shall be issued under the provisions of this act to:

16 (1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9)
17 or (12) of K.S.A. 41-311 and amendments thereto, except that the provisions of
18 subsection (a)(7) of such section shall not apply to nor prohibit the issuance
19 of a license for a class A club to an officer of a post home of a congressionally
20 chartered service or fraternal organization, or a benevolent association or
21 society thereof.

22 (2) A person who has had the person's license revoked for cause under the
23 provisions of this act.

24 (3) A person who has not been a resident of this state for a period of at least
25 one year immediately preceding the date of application.

26 (4) A person who has a beneficial interest in the manufacture, preparation
27 or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in
28 any other club, drinking establishment or caterer licensed hereunder, except
29 that:

30 (A) A license for premises located in a hotel may be granted to a person
31 who has a beneficial interest in one or more other clubs or drinking
32 establishments licensed hereunder if such other clubs or establishments are
33 located in hotels.

34 (B) A license for a club or drinking establishment which is a restaurant
35 may be issued to a person who has a beneficial interest in other clubs or
36 drinking establishments which are restaurants.

37 (C) A caterer's license may be issued to a person who has a beneficial
38 interest in a club or drinking establishment and a license for a club or
39 drinking establishment may be issued to a person who has a beneficial
40 interest in a caterer.

41 (D) A license for a class A club may be granted to an organization of which
42 an officer, director or board member is a distributor or retailer licensed under
43 the liquor control act if such distributor or retailer sells no alcoholic liquor to
44 such club.

45 (E) On and after January 1, 1988, a license for a class B club or drinking
46 establishment may be granted to a person who has a beneficial interest in a
47 microbrewery or farm winery licensed pursuant to the Kansas liquor control
48 act.

49 (5) A copartnership, unless all of the copartners are qualified to obtain a
50 license.

51 (6) A corporation, if any officer, manager or director thereof, or any
52 stockholder owning in the aggregate more than 5% of the common or
53 preferred stock of such corporation would be ineligible to receive a license
54 hereunder for any reason other than citizenship and residence requirements.

Att. 1
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1 (7) A corporation, if any officer, manager or director thereof, or any
2 stockholder owning in the aggregate more than 5% of the common or
3 preferred stock of such corporation, has been an officer, manager or director,
4 or a stockholder owning in the aggregate more than 5% of the common or
5 preferred stock, of a corporation which:

6 (A) Has had a license revoked under the provisions of the club and
7 drinking establishment act; or

8 (B) has been convicted of a violation of the club and drinking
9 establishment act or the cereal malt beverage laws of this state.

10 (8) A corporation organized under the laws of any state other than this
11 state.

12 (9) *a trust, if any grantor, beneficiary or trustee would be ineligible to*
13 *receive a license under this act for any reason, except that the provisions of*
14 *K.S.A. 41-311 (a)(6) shall not apply in determining the eligibility of a*
15 *beneficiary.*

16 (b) No club or drinking establishment license shall be issued under the
17 provisions of the club and drinking establishment act to:

18 (1) A person described in subsection (a)(11) of K.S.A. 41-311 and
19 amendments thereto.

20 (2) A person who is not a resident of the county in which the premises
21 sought to be licensed are located.

Att. 1
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SENATE BILL No. 703

By Committee on Federal and State Affairs

2-19

8 AN ACT concerning the Kansas parimutuel racing act; amending
9 K.S.A. 77-609 and K.S.A. 1991 Supp. 38-1607, 74-8802, 74-8804,
10 74-8810, 74-8812, 74-8813, 74-8815, 74-8816, 74-8817 and 74-8824
11 and repealing the existing sections.

12

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

14 Section 1. K.S.A. 1991 Supp. 74-8802 is hereby amended to read
15 as follows: 74-8802. As used in this act unless the context otherwise
16 requires:

17 (a) "Breakage" means the odd cents by which the amount payable
18 on each dollar wagered in a parimutuel pool exceeds a multiple of
19 \$.10.

20 (b) "Commission" means the Kansas racing commission created
21 by this act.

22 (c) "Concessionaire licensee" means a person, partnership, cor-
23 poration or association licensed by the commission to utilize a space
24 or privilege within a racetrack facility to sell goods.

25 (d) "Dual racetrack facility" means a racetrack facility for the
26 racing of both horses and greyhounds or two immediately adjacent
27 racetrack facilities, owned by the same licensee, one for racing horses
28 and one for racing greyhounds.

29 (e) "Executive director" means the executive director of the
30 commission.

31 (f) "Facility manager licensee" means a person, partnership, cor-
32 poration or association licensed by the commission and having a
33 contract with an organization licensee to manage a racetrack facility.

34 (g) "Facility owner licensee" means a person, partnership, cor-
35 poration or association, or the state of Kansas or any political sub-
36 division thereof, licensed by the commission to construct or own a
37 racetrack facility but does not mean an organization licensee which
38 owns the racetrack facility in which it conducts horse or greyhound
39 racing.

40 (h) "Financial interest" means an interest that could result di-
41 rectly or indirectly in receiving a pecuniary gain or sustaining a
42 pecuniary loss as a result of ownership or interest in a business
43 entity or activity or as a result of a salary, gratuity or other com-

- 1 pension or remuneration from any person.
- 2 (i) "Greyhound" means any greyhound breed of dog properly
3 registered with the national greyhound association of Abilene,
4 Kansas.
- 5 (j) "Kansas-whelped greyhound" means a greyhound whelped and
6 raised in Kansas for the first six months of its life.
- 7 (k) "Minus pool" means a parimutuel pool in which, after de-
8 ducting the takeout, not enough money remains in the pool to pay
9 the legally prescribed minimum return to those placing winning
10 wagers, and in which the organization licensee would be required
11 to pay the remaining amount due.
- 12 (l) "Nonprofit organization" means:
- 13 (1) A corporation which is incorporated in Kansas as a not-for-
14 profit corporation pursuant to the Kansas general corporation code
15 and the net earnings of which do not inure to the benefit of any
16 shareholder, individual member or person; or
- 17 (2) a county fair association organized pursuant to K.S.A. 2-125
18 *et seq.* and amendments thereto.
- 19 (m) "Occupation licensee" means a person licensed by the com-
20 mission to perform an occupation or provide services which the
21 commission has identified as requiring a license pursuant to this act.
- 22 (n) "Organization licensee" means a nonprofit organization li-
23 censed by the commission to conduct races pursuant to this act and,
24 if the license so provides, to construct or own a racetrack facility.
- 25 (o) "Parimutuel pool" means the total money wagered by indi-
26 viduals on one or more horses or greyhounds in a particular horse
27 or greyhound race to win, place or show, or combinations thereof,
28 as established by the commission, and held by the organization
29 licensee pursuant to the parimutuel system of wagering. There is a
30 separate parimutuel pool for win, for place, for show and for each
31 of the other forms of betting provided for by the rules and regulations
32 of the commission.
- 33 (p) "Parimutuel wagering" means a form of wagering on the out-
34 come of horse and greyhound races in which those who wager pur-
35 chase tickets of various denominations on one or more horses or
36 greyhounds and all wagers for each race are pooled and the winning
37 ticket holders are paid prizes from such pool in amounts proportional
38 to the total receipts in the pool.
- 39 (q) "Race meeting" means the entire period of time for which
40 an organization licensee has been approved by the commission to
41 hold horse or greyhound races at which parimutuel wagering is
42 conducted or to hold horse races at which parimutuel wagering is
43 not conducted, *including such additional time as designated by the*

1 *commission for the conduct of official business before and after the*
2 *racers.*

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

9 (s) "Takeout" means the total amount of money withheld from
10 each parimutuel pool for the payment of purses, taxes and the share
11 to be kept by the organization licensee. Takeout does not include
12 the breakage. The balance of each pool less the breakage is distrib-
13 uted to the holders of winning parimutuel tickets.

14 (t) "Totalisator licensee" means any person, partnership, cor-
15 poration or association licensed by the commission to provide to-
16 talisator equipment or services to an organization licensee.

17 Sec. 2. K.S.A. 1991 Supp. 74-8804 is hereby amended to read
18 as follows: 74-8804. (a) *During race meetings*, the commission and
19 its designated employees may observe and inspect all racetrack fa-
20 cilities operated by licensees, including but not limited to all ma-
21 chines, equipment and facilities used for parimutuel wagering;
22 ~~whether or not race meetings are being conducted at the time.~~

23 (b) Commission members and hearing officers designated by the
24 commission may administer oaths and take depositions to the same
25 extent and subject to the same limitations as would apply if the
26 deposition was in aid of a civil action in the district court.

27 (c) The commission may examine, or cause to be examined by
28 any agent or representative designated by the commission, any
29 books, papers, records or memoranda of any licensee for the purpose
30 of ascertaining compliance with any provision of this act or any rule
31 and regulation adopted hereunder.

32 (d) The commission may issue subpoenas to compel access to or
33 for the production of any books, papers, records or memoranda in
34 the custody or control of any licensee or officer, member, employee
35 or agent of any licensee, or to compel the appearance of any licensee
36 or officer, member, employee or agent of any licensee, for the pur-
37 pose of ascertaining compliance with any of the provisions of this
38 act or any rule and regulation adopted hereunder. Subpoenas issued
39 pursuant to this subsection may be served upon individuals and
40 corporations in the same manner provided in K.S.A. 60-304 and
41 amendments thereto for the service of process by any officer au-
42 thorized to serve subpoenas in civil actions or by the commission
43 or an agent or representative designated by the commission. In the

1 case of the refusal of any person to comply with any such subpoena,
2 the executive director may make application to the district court of
3 any county where such books, papers, records, memoranda or person
4 is located for an order to comply.

5 (e) The commission shall allocate equitably race meeting dates,
6 racing days and hours to all organization licensees and assign such
7 dates and hours so as to minimize conflicting dates and hours within
8 the same geographic market area.

9 (f) The commission shall have the authority, after notice and an
10 opportunity for hearing in accordance with rules and regulations
11 adopted by the commission, to exclude, or cause to be expelled,
12 from any race meeting or racetrack facility, any person:

13 (1) Who has violated the provisions of this act or any rule and
14 regulation or order of the commission;

15 (2) who has been convicted of ~~violating~~ *a violation of* the racing
16 or gambling laws of this or any other state or of the United States
17 *or has been adjudicated of committing as a juvenile an act which,*
18 *if committed by an adult, would constitute such a violation;* or

19 (3) whose presence, in the opinion of the commission, reflects
20 adversely on the honesty and integrity of horse or greyhound racing
21 or interferes with the orderly conduct of a race meeting.

22 (g) The commission shall review and approve all proposed con-
23 struction and major renovations to racetrack facilities owned or leased
24 by licensees.

25 (h) The commission may suspend a horse or greyhound from
26 participation in races if such horse or greyhound has been involved
27 in any violation of the provisions of this act or any rule and regulation
28 or order of the commission.

29 (i) The commission, within 72 hours after any action taken by a
30 steward or racing judge and upon appeal by any interested party or
31 upon its own initiative, may overrule any decision of a steward or
32 racing judge, other than a decision regarding disqualifications for
33 interference during the running of a race, if the preponderance of
34 evidence indicates that:

35 (1) The steward or racing judge mistakenly interpreted the law;

36 (2) new evidence of a convincing nature is produced; or

37 (3) the best interests of racing and the state may be better served.

38 A decision of the commission to overrule any decision of a steward
39 or racing judge shall not change the distribution of parimutuel pools
40 to the holders of winning tickets. A decision of the commission which
41 would affect the distribution of purses in any race shall not result
42 in a change in that distribution unless a written claim is submitted
43 to the commission within 48 hours after completion of the contested

1 race by one of the owners or trainers of a horse or greyhound which
2 participated in such race and a preponderance of evidence clearly
3 indicates to the commission that one or more of the grounds for
4 protest, as provided for in rules and regulations of the commission,
5 has been substantiated.

6 (j) The commission, after notice and a hearing in accordance with
7 rules and regulations adopted by the commission, may impose a civil
8 fine not exceeding \$250 for each violation of any provision of this
9 act, or any rule and regulation of the commission, for which no other
10 penalty is provided.

11 (k) *If an order of the commission in any proceeding is adverse*
12 *to the licensee or applicant, costs incurred by the commission in*
13 *conducting the proceeding may be assessed against the parties to*
14 *the proceeding in such proportion as the commission determines upon*
15 *consideration of all relevant circumstances, including the nature of*
16 *the proceeding and the level of participation by the parties. If the*
17 *commission is the unsuccessful party, the costs shall be paid by the*
18 *commission.*

19 (l) *For purposes of this section, "costs incurred" means the fees*
20 *and expenses of the presiding officer; costs of making any transcripts;*
21 *witness fees and expenses; mileage, travel allowances and subsistence*
22 *expenses of commission employees; and fees and expenses of agents*
23 *of the commission. Costs incurred does not include the presiding*
24 *officer's fees and expenses or costs of making and preparing the*
25 *record unless the commission has designated or retained the services*
26 *of independent contractors to perform such functions.*

27 (m) *As part of the final order rendered in an administrative*
28 *proceeding, the commission shall make an assessment of costs in-*
29 *curring. Such order shall include findings and conclusions in support*
30 *of the assessment of costs.*

31 (n) *Any action for judicial review of an order of the commission*
32 *shall be filed in the district court of Shawnee county.*

33 (o) The commission shall adopt rules and regulations specifying
34 and regulating:

35 (1) Those drugs and medications which may be administered,
36 and possessed for administration, to a horse or greyhound within
37 the confines of a racetrack facility; and

38 (2) that equipment for administering drugs or medications to
39 horses or greyhounds which may be possessed within the confines
40 of a racetrack facility.

41 (p) The commission may adopt rules and regulations providing
42 for the testing of any licensees of the commission, and any officers,
43 directors and employees thereof, to determine whether they are

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1 users of any controlled substances.

2 ~~(m)~~ (q) The commission may require fingerprinting of all persons
3 necessary to verify qualification for any license issued pursuant to
4 this act. The commission shall submit such fingerprints to the Kansas
5 bureau of investigation and to the federal bureau of investigation for
6 the purposes of verifying the identity of such persons and obtaining
7 records of criminal arrests and convictions.

8 ~~(n)~~ (r) The commission may receive from the Kansas bureau of
9 investigation or other criminal justice agencies such criminal history
10 record information (including arrest and nonconviction data), criminal
11 intelligence information and information relating to criminal and
12 background investigations as necessary for the purpose of determin-
13 ing qualifications of licensees of and applicants for licensure by the
14 commission. *Upon the written request of the chairperson of the*
15 *commission, the commission may receive from the district courts such*
16 *information relating to juvenile proceedings as necessary for the*
17 *purpose of determining qualifications of licensees of and applicants*
18 *for licensure by the commission.* Disclosure or use of any such
19 information received by the commission *pursuant to this subsection,*
20 *or of any record containing such information, for any purpose other*
21 *than that provided by this subsection is a class A misdemeanor and*
22 *shall constitute grounds for removal from office, termination of em-*
23 *ployment or denial, revocation or suspension of any license issued*
24 *under this act. Nothing in this subsection shall be construed to make*
25 *unlawful the disclosure of any such information by the commission*
26 *in a hearing held pursuant to this act.*

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

32 (p) The commission shall adopt such rules and regulations as
33 necessary to implement and enforce the provisions of this act.

34 Sec. 3. K.S.A. 1991 Supp. 74-8810 is hereby amended to read
35 as follows: 74-8810. (a) It is a class A misdemeanor for any person
36 to have a financial interest, directly or indirectly, in any racetrack
37 facility within the state of Kansas:

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

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

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1 officer, director or member of such an organization licensee.

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

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

} Delete
"totalisator
license"

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

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

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

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

23 (1) Hold any license issued by the commission, except that a
24 steward or racing judge shall hold an occupation license to be such
25 a steward or judge; or

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

28 (d) It is a class A misdemeanor for any officer, director or member
29 of an organization licensee, other than a county fair association, to:

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

35 (2) enter into any business dealing, venture or contract with the
36 organization licensee or, other than in the capacity of an officer or
37 director of the organization licensee, with a facility owner license,
38 facility manager license, ~~totalisator license~~ or concessionaire
39 licensee.

} Delete
"totalisator
license"

40 (e) It is a class A misdemeanor for any facility owner licensee or
41 facility manager licensee, or any officer, director or, employee, *stock-*
42 *holder or shareholder* thereof or any person having an ownership
43 interest therein, to participate directly or indirectly as an owner,

1 owner-trainer or trainer of a horse or greyhound, or as a jockey of
2 a horse, entered in a race meeting conducted in this state.

3 (f) It is a class A misdemeanor for any licensee of the commission,
4 or any person who is an officer, director, member or employee of
5 a licensee, to place a wager on an entry in a horse or greyhound
6 race conducted at a racetrack facility where the licensee is authorized
7 to engage in licensed activities if the commission has by rules and
8 regulations designated such person's position as a position which
9 could influence the outcome of such race *or the parimutuel wagering*
10 *thereon.*

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

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

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

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

21 (3) administer or conspire to administer any drug or medication
22 to a horse or greyhound within the confines of a racetrack facility
23 in violation of rules and regulations of the commission, upon con-
24 viction of the first offense;

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

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

33 (6) enter any horse or greyhound in any race knowing such horse
34 or greyhound to be ineligible to compete in such race pursuant to
35 K.S.A. 1990 1991 Supp. 74-8812 and amendments thereto; or

36 (7) prepare or cause to be prepared an application for registration
37 of a horse pursuant to K.S.A. 1990 1991 Supp. 74-8830 and amend-
38 ments thereto knowing that such application contains false
39 information.

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

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

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

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

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

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

20 (k) Possession of any device described in subsection (i)(5) by an-
21 yone within the confines of a racetrack facility shall be prima facie
22 evidence of intent to use such device.

23 Sec. 4. K.S.A. 1991 Supp. 74-8812 is hereby amended to read
24 as follows: 74-8812. (a) Horses shall not compete in any race meeting
25 before reaching the age of two years. A horse's age shall be deter-
26 mined beginning on the first day of January in the year in which
27 the horse is foaled.

28 (b) Greyhounds shall not compete in any race meeting before
29 reaching the age of 15 months.

30 (c) No horse shall compete in any race limited to Kansas-bred
31 horses unless such horse is registered pursuant to K.S.A. 1987 Supp.
32 74-8830. The commission may prescribe such forms as necessary to
33 determine the eligibility of horses entered in such a race.

34 (d) *No horse or greyhound owned by a stable, kennel or other*
35 *entity shall compete in any race meeting unless the name of the*
36 *stable, kennel or entity is registered upon forms prescribed and*
37 *furnished by the commission and the appropriate registration fee*
38 *paid. The commission shall establish the amount of such registration*
39 *fees, but no such fee shall exceed \$200 a year.*

40 Sec. 5. K.S.A. 1991 Supp. 74-8813 is hereby amended to read
41 as follows: 74-8813. (a) A nonprofit organization may apply to the
42 commission for an organization license to conduct horse races or an
43 organization license to conduct greyhound races, or both such li-

1 censes. In addition, an organization license may authorize the li-
2 censee to construct or own a racetrack facility if so provided by the
3 commission. The application for an organization license shall be filed
4 with the commission at a time and place prescribed by rules and
5 regulations of the commission. The application shall specify the days
6 when and the exact location where it proposes to conduct such races
7 and shall be in a form and include such information as the commission
8 prescribes. A nonrefundable application fee in the form of a certified
9 check or bank draft shall accompany the application. Except as pro-
10 vided pursuant to K.S.A. 1987 1991 Supp. 74-8814 and amendments
11 thereto, such fee shall be as follows: (1) For an application for an
12 organization license to conduct horse or greyhound races with par-
13 imutuel wagering, a fee of \$5,000 for each application; and (2) for
14 an application for an organization license to conduct horse races
15 without parimutuel wagering, a fee of \$500 for each application. If
16 the application fee is insufficient to pay the reasonable expenses of
17 processing the application and investigating the applicant's quali-
18 fications for licensure, the commission shall require the applicant to
19 pay to the commission, at such times and in such form as required
20 by the commission, any additional amounts necessary to pay such
21 expenses. No license shall be issued to an applicant until the ap-
22 plicant has paid such additional amounts in full, and such amounts
23 shall not be refundable except to the extent that they exceed the
24 actual expenses of processing the application and investigating the
25 applicant's qualifications for licensure.

26 (b) If an applicant for an organization license is proposing to
27 construct a racetrack facility, such applicant, at the time of submitting
28 the application, shall deposit with the commission, in such form as
29 prescribed by rules and regulations of the commission, the sum of
30 (1) \$500,000, if the number of racing days applied for in a racing
31 season is 150 days or more; (2) \$250,000, if the number of racing
32 days applied for is less than 150 days; or (3) a lesser sum established
33 by the commission, if the applicant meets the qualifications set forth
34 in subsection (a)(1) or (a)(2) of K.S.A. 1987 1991 Supp. 74-8814 and
35 amendments thereto or if the applicant will be conducting races only
36 on the state fairgrounds. Only one such deposit shall be required
37 for a dual racetrack facility. The executive director shall promptly
38 remit any deposit received pursuant to this subsection to the state
39 treasurer. The state treasurer shall deposit the entire amount in the
40 state treasury and credit it to the racing applicant deposit fund
41 created by K.S.A. 1987 1991 Supp. 74-8828 and amendments
42 thereto. If the application is denied by the commission, the deposit,
43 and any interest accrued thereon, shall be refunded to the applicant.

1 If the license is granted by the commission in accordance with the
2 terms of the application or other terms satisfactory to the applicant,
3 the deposit, and any interest accrued thereon, shall be refunded to
4 the licensee upon completion of the racetrack facility in accordance
5 with the terms of the license. If the licensee fails to complete the
6 racetrack facility in accordance with the terms of the license, the
7 deposit, and any interest accrued thereon, shall be forfeited by the
8 applicant.

9 (c) To qualify for an organization license to conduct horse or
10 greyhound races:

11 (1) The applicant shall be a bona fide, nonprofit organization
12 which, if applicable, meets the requirements of subsection (d);

13 (2) the applicant shall have, either by itself or through contractual
14 relationships with other persons or businesses approved by the com-
15 mission, the financial capability, manpower and technical expertise,
16 as determined by the commission, to properly conduct horse races
17 or greyhound races, or both, and, if applicable, to operate a pari-
18 mutuel wagering system;

19 (3) if the applicant is proposing to construct a racetrack facility,
20 the applicant shall submit detailed plans for the construction of such
21 facility, including the means and source of financing such construction
22 and operation, sufficient to convince the commission that such plans
23 are feasible;

24 (4) submit for commission approval a written copy of each con-
25 tract and agreement which the applicant proposes to enter into,
26 including all those listed in subsection (n), which contracts and agree-
27 ments shall conform to the restrictions placed thereon by subsections
28 (n), (o) and (p);

29 (5) the applicant shall propose to conduct races within only one
30 county, and in such county the majority of the qualified electors
31 have approved either: (A) The constitutional amendment permitting
32 the conduct of horse and dog races and parimutuel wagering thereon;
33 or (B) a proposition permitting horse and dog races and parimutuel
34 wagering thereon within the boundaries of such county;

35 (6) no director, officer, employee or agent of the applicant shall
36 have been convicted of any of the following in any court of any state
37 or of the United States *or shall have been adjudicated in any such*
38 *court of committing as a juvenile an act which, if committed by an*
39 *adult, would constitute any of the following:* (A) Fixing of horse or
40 greyhound races; (B) illegal gambling activity; (C) illegal sale or
41 possession of any controlled substance; (D) operation of any illegal
42 business; (E) repeated acts of violence; or (F) any felony; and

43 (7) no director or officer of the applicant shall be addicted to,

in the last five
years

1 and a user of, alcohol or a controlled substance.
2 (d) To qualify for an organization license to conduct horse or
3 greyhound races, a nonprofit organization, other than a county fair
4 association or a nonprofit organization conducting races only on the
5 state fair grounds, shall:
6 (1) Distribute all of its net earnings from the conduct of horse
7 and greyhound races, other than that portion of the net earnings
8 which is necessary to satisfy the debt service obligations, not oth-
9 erwise deducted from net earnings, of an organization licensee own-
10 ing the racetrack facility or that portion of the net earnings which
11 is set aside as reasonable reserves for future improvement, main-
12 tenance and repair of the racetrack facility owned by the organization
13 licensee, only to organizations, other than itself, which: (A) Have
14 been exempted from the payment of federal income taxes pursuant
15 to section 501(c)(3) of the federal internal revenue code of 1986, as
16 in effect July 1, 1987, (B) are domiciled in this state and (C) expend
17 the moneys so distributed only within this state;
18 (2) distribute not more than 25% of such net earnings to any
19 one such organization in any calendar year;
20 (3) not engage in, and have no officer, director or member who
21 engages in, any prohibited transaction, as defined by section 503(b)
22 of the federal internal revenue code of 1986, as in effect July 1,
23 1987; and
24 (4) have no officer, director or member who is not a bona fide
25 resident of this state.
26 (e) Within 30 days after the date specified for filing, the com-
27 mission shall examine each application for an organization license for
28 compliance with the provisions of this act and rules and regulations
29 of the commission. If any application does not comply with the
30 provisions of this act or rules and regulations of the commission, the
31 application may be rejected or the commission may direct the ap-
32 plicant to comply with the provisions of this act or rules and reg-
33 ulations of the commission within a reasonable time, as determined
34 by the commission. Upon proof by the applicant of compliance, the
35 commission may reconsider the application. If an application is found
36 to be in compliance and the commission finds that the issuance of
37 the license would be within the best interests of horse and greyhound
38 racing within this state from the standpoint of both the public interest
39 and the horse or greyhound industry, as determined solely within
40 the discretion of the commission, the commission may issue an or-
41 ganization license to the applicant. The commission shall approve
42 the issuance of organization licenses for a period established by the
43 commission but not to exceed 25 years. Such license may provide

1 that during its term it constitutes an exclusive license within a radius
2 of the location specified in the license, as determined by the com-
3 mission. No racing of any kind regulated by this act shall be con-
4 ducted by any other person within the territory covered by such
5 exclusive license without the written consent of the licensee. For
6 each license issued, the commission shall specify the location, type,
7 time and date of all races and race meetings which the commission
8 has approved for the licensee to conduct. The license shall be issued
9 upon receipt of the license fee and the furnishing of a surety bond
10 or other financial security approved by the commission, conditioned
11 on, and in an amount determined by the commission as sufficient
12 to pay, the licensee's potential financial liability for unpaid taxes,
13 purses and distribution of parimutuel winnings and breakage. No
14 organization license shall be transferred to any other organization or
15 entity.

16 (f) When considering the granting of organization licenses or rac-
17 ing days between two or more competing applicants, the commission
18 shall give consideration to the following factors:

19 (1) The character, reputation, experience and financial stability
20 of those persons within the applicant organizations who will be su-
21 pervising the conduct of the races and parimutuel wagering for the
22 organization;

23 (2) the quality of the racing facilities and adjoining
24 accommodations;

25 (3) the amount of revenue that can reasonably be expected to
26 be generated from state and local taxes, the economic impact for
27 the respective horse or greyhound breeding industries in Kansas and
28 the indirect economic benefit to the surrounding area, in the de-
29 termination of which economic benefit the commission shall solicit
30 written recommendations from all interested parties in the surround-
31 ing area;

32 (4) the location of the race meetings in relation to the principal
33 centers of population and the effect of such centers on the ability
34 of the organizations to sustain a financially sound racing operation;
35 and

36 (5) testimony from interested parties at public hearings to be
37 conducted in the geographic areas where the applicants would be
38 conducting their race meetings.

39 (g) Except as otherwise provided pursuant to K.S.A. 1987 1991
40 Supp. 74-8814 and amendments thereto, each organization licensee
41 shall pay a license fee in the amount of \$200 for each day of racing
42 approved by the commission. Such fees shall be paid at such times
43 and by such means as prescribed by rules and regulations of the

1 commission. The commission may authorize the state treasurer to
2 refund from the state racing fund a fee paid for any racing day which
3 was canceled with advance notice to and with the approval of the
4 commission.

5 (h) Organization licensees may apply to the commission for
6 changes in approved race meetings or dates or for additional race
7 meetings or dates as needed throughout the terms of their licenses.
8 Application shall be made upon forms furnished by the commission
9 and shall contain or be accompanied by such information as the
10 commission prescribes. Upon approval by the commission, the or-
11 ganization licensee shall pay an additional license fee for any race
12 days in excess of the number originally approved and included in
13 the calculation of the initial license fee.

14 (i) All organization licenses shall be reviewed annually by the
15 commission to determine if the licensee is complying with the pro-
16 visions of this act and rules and regulations of the commission and
17 following such proposed plans and operating procedures as were
18 approved by the commission. The commission may review an or-
19 ganization license more often than annually upon its own initiative
20 or upon the request of any interested party. The commission shall
21 require each organization licensee, other than a county fair associ-
22 ation, to file annually with the commission a certified financial audit
23 of the licensee by an independent certified public accountant, which
24 audit shall be open to inspection by the public, and may require
25 an organization licensee to provide any other information necessary
26 for the commission to conduct the annual or periodic review.

27 (j) Subject to the provisions of subsection (k), the commission,
28 in accordance with the Kansas administrative procedure act, may
29 suspend or revoke an organization license or may impose a civil fine
30 not exceeding \$5,000, or may both suspend such license and impose
31 such fine, for each of the following violations by a licensee:

32 (1) One or more violations, or a pattern of repeated violations,
33 of the provisions of this act or rules and regulations of the
34 commission;

35 (2) failure to follow one or more provisions of the licensee's plans
36 for the financing, construction or operation of a racetrack facility as
37 submitted to and approved by the commission;

38 (3) failure to maintain compliance with the requirements of sub-
39 section (c) or (d), if applicable, for the initial issuance of an organ-
40 ization license;

41 (4) failure to properly maintain or to make available to the com-
42 mission such financial and other records sufficient to permit the
43 commission to verify the licensee's nonprofit status and compliance

1 with the provisions of this act or rules and regulations of the
2 commission;

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

6 (6) failure to meet the licensee's financial obligations incurred in
7 connection with the conduct of a race meeting; or

8 (7) a violation of K.S.A. 1987 1991 Supp. 74-8833 and amend-
9 ments thereto or any rules and regulations adopted pursuant to that
10 section.

11 (k) Prior to suspension or revocation of a license pursuant to
12 subsection (j), the commission shall give written notice of the reason
13 therefor in detail to the organization licensee and to all facility owner
14 and facility manager licensees with whom the organization licensee
15 is doing business. Upon receipt of such notice by all of such licensees,
16 the organization licensee shall have 30 days in which to cure the
17 alleged violation, if it can be cured. If the commission finds that the
18 violation has not been cured upon expiration of the 30 days, or upon
19 a later deadline granted by the commission, or if the commission
20 finds that the alleged violation is of such a nature that it cannot be
21 cured, the commission shall proceed to suspend or revoke the license
22 pursuant to subsection (j). Nothing in this subsection shall be con-
23 strued to preclude the commission from imposing a fine pursuant
24 to subsection (j) even if the violation is cured with 30 days or such
25 other period as provided by the commission.

26 (l) Prior to the expiration of an organization license, the organ-
27 ization may apply to the commission for renewal of such license.
28 The renewal application shall be in a form and include such infor-
29 mation as the commission prescribes. The commission shall grant
30 such renewal if the organization meets all of the qualifications re-
31 quired for an initial license. The commission may charge a fee for
32 the processing of the renewal application not to exceed the appli-
33 cation fee authorized for an initial license.

34 (m) Once an organization license has been issued, no person
35 thereafter and during the term of such license shall in any manner
36 become the owner or holder, directly or indirectly, of any shares of
37 stock or certificates or other evidence of ownership or become a
38 director or officer of such organization licensee without first having
39 obtained the written approval of the commission.

40 (n) An organization licensee shall submit to the commission for
41 approval a copy of each contract and agreement which the organi-
42 zation licensee proposes to enter into and any proposed modification
43 of any such contract or agreement, including but not limited to those

1 involving:

2 (1) Any person to be employed by the organization licensee;

3 (2) any person supplying goods and services to the organization
4 licensee, including management, consulting or other professional
5 services;

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

8 (4) the operation of any concession within or adjacent to the
9 racetrack facility.

10 The commission shall reject any such contract or agreement which
11 violates any provision of this act or rules and regulations of the
12 commission, which provides for payment of money or other valuable
13 consideration which is clearly in excess of the fair market value of
14 the goods, services or facilities being purchased or leased or which,
15 in the case of a contract or agreement with a facility owner licensee
16 or a facility manager licensee, would not protect the organization
17 licensee from incurring losses due to contractual liability.

18 (o) Organization licensees shall not by lease, contract, agreement,
19 understanding or arrangement of any kind grant, assign or turn over
20 to any person the parimutuel system of wagering described in K.S.A.
21 1987 1991 Supp. 74-8819 and amendments thereto or the operation
22 and conduct of any horse or greyhound race to which such wagering
23 applies, but this subsection shall not prohibit the organization li-
24 censee from contracting with and compensating others for providing
25 services in connection with the financing, acquisition, construction,
26 equipping, maintenance and management of the racetrack facility;
27 the hiring and training of personnel; and the promotion of the facility.

28 (p) An organization licensee shall not in any manner permit a
29 person other than such licensee to have a share, percentage or
30 proportion of money received from parimutuel wagering at the race-
31 track facility except as specifically set forth in this act, except that:

32 (1) A facility owner licensee may receive gross percentage rental
33 fees under a lease if all terms of the lease are disclosed to the
34 commission and such lease is approved by the commission; and

35 (2) a person who has contracted with an organization licensee to
36 provide one or more of the services permitted by subsection (o) may
37 receive compensation in the form of a percentage of the money
38 received from parimutuel wagering if such contract is approved by
39 the commission and such person is licensed as a facility manager.

40 (q) Directors or officers of an organization licensee are not liable
41 in a civil action for damages arising from their acts or omissions
42 when acting as individual directors or officers, or as a board as a
43 whole, of a nonprofit organization conducting races pursuant to this

1 act, unless such conduct constitutes willful or wanton misconduct or
2 intentionally tortious conduct, but only to the extent the directors
3 and officers are not required to be insured by law or are not oth-
4 erwise insured against such acts or omissions. Nothing in this section
5 shall be construed to affect the liability of an organization licensee
6 for damages in a civil action caused by the negligent or wrongful
7 acts or omissions of its directors or officers, and a director's or officer's
8 negligence or wrongful act or omission, while acting as a director
9 or officer, shall be imputed to the organization licensee for the
10 purpose of apportioning liability for damages to a third party pursuant
11 to K.S.A. 60-258a and amendments thereto.

12 (r) If an applicant for an organization license proposes to construct
13 a racetrack facility and the commission determines that such license
14 should be issued to the applicant, the commission shall issue to the
15 applicant an organization license conditioned on the submission by
16 the licensee to the commission, within a period of time prescribed
17 by the commission, of a commitment for financing the construction
18 of the racetrack facility by a financial institution or other source,
19 subject to approval by the commission. If such commitment is not
20 submitted within the period of time originally prescribed by the
21 commission or such additional time as authorized by the commission,
22 the license shall expire at the end of such period.

23 (s) If an organization licensee's license authorizes the construction
24 of a dual racetrack facility, such license shall be conditioned on the
25 completion of such facility within a time specified by the commission.
26 If, within the time specified by the commission, the licensee has
27 not constructed a dual racetrack facility in accordance with the plans
28 submitted to the commission pursuant to subsection (c)(3), the com-
29 mission, in accordance with the Kansas administrative procedure act,
30 shall:

31 (1) Impose upon the licensee a civil fine equal to 5% of the total
32 parimutuel pools for all races held at the licensee's facility on and
33 after the date that racing with parimutuel wagering is first conducted
34 at such facility and until the date that construction of the dual
35 racetrack facility is completed and horse racing has begun; and

36 (2) revoke the licensee's license unless the licensee demonstrates
37 reasonable cause for the failure to complete the facility.

38 (t) Any license granted an organization licensee to conduct races
39 at a dual racetrack facility shall be conditioned on the organization
40 licensee's conducting horse races on not less than 20% of the annual
41 racing days granted the licensee by the commission. If an organi-
42 zation licensee fails to comply with such condition, the commission
43 shall revoke the organization licensee's license unless the licensee

1 demonstrates reasonable justification for the failure to complete the
2 facility.

3 (u) The refusal to renew an organization license shall be in ac-
4 cordance with the Kansas administrative procedure act and shall be
5 subject to review under the act for judicial review and civil enforce-
6 ment of agency actions.

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

21 Sec. 6. K.S.A. 1991 Supp. 74-8815 is hereby amended to read
22 as follows: 74-8815. (a) Any person, partnership, corporation or as-
23 sociation, or the state of Kansas or any political subdivision thereof,
24 may apply to the commission for a facility owner license to construct
25 or own, or both, a racetrack facility which includes a racetrack and
26 other areas designed for horse racing or greyhound racing, or both.

27 (b) Any person, partnership, corporation or association may apply
28 to the commission for a facility manager license to manage a racetrack
29 facility.

30 (c) A facility owner license or a facility manager license shall be
31 issued for a period established by the commission but not to exceed
32 25 years. The application for a facility owner license shall be ac-
33 companied by a nonrefundable fee of \$5,000. An application for a
34 facility manager license shall be accompanied by a nonrefundable
35 fee of \$5,000. If the application fee is insufficient to pay the rea-
36 sonable expenses of processing the application and investigating the
37 applicant's qualifications for licensure, the commission shall require
38 the applicant to pay to the commission, at such times and in such
39 form as required by the commission, any additional amounts nec-
40 essary to pay such expenses. No license shall be issued to an applicant
41 until the applicant has paid such additional amounts in full, and such
42 amounts shall not be refundable except to the extent that they exceed
43 the actual expenses of processing the application and investigating

1 the applicant's qualifications for licensure.

2 (d) If an applicant for a facility owner license is proposing to
3 construct a racetrack facility, such applicant, at the time of submitting
4 the application, shall deposit with the commission, in such form as
5 prescribed by rules and regulations of the commission, the sum of
6 (1) \$500,000, if the number of racing days applied for by organization
7 licensee applicants proposing to race at the facility is 150 days or
8 more in a racing season; (2) \$250,000, if such number of racing days
9 applied for is less than 150 days; or (3) a lesser sum established by
10 the commission, if the applicant is the state or a political subdivision
11 of the state. Only one such deposit shall be required for a dual
12 racetrack facility. The executive director shall promptly remit any
13 deposit received pursuant to this subsection to the state treasurer.
14 The state treasurer shall deposit the entire amount in the state
15 treasury and credit it to the racing applicant deposit fund created
16 by K.S.A. 1990 1991 Supp. 74-8828 and amendments thereto. If
17 the application is denied by the commission, the deposit, and any
18 interest accrued thereon, shall be refunded to the applicant. If the
19 license is granted by the commission in accordance with the terms
20 of the application or other terms satisfactory to the applicant, the
21 deposit, and any interest accrued thereon, shall be refunded to the
22 licensee upon completion of the racetrack facility in accordance with
23 the terms of the license. If the licensee fails to complete the racetrack
24 facility in accordance with the terms of the license, the deposit, and
25 any interest accrued thereon, shall be forfeited by the applicant.

26 (e) A facility owner license shall be granted only to an applicant
27 that already owns an existing racetrack facility or has submitted with
28 its application detailed plans for the construction of such facility,
29 including the means and source of financing such construction and
30 operation sufficient to convince the commission that such plans are
31 feasible or has submitted detailed plans for the construction of
32 a racetrack facility, including the means and source of financing
33 such construction and operation, sufficient to convince the com-
34 mission that such plans are feasible. A facility manager license
35 shall be granted only to an applicant that has a facility management
36 contract with an organization licensed pursuant to K.S.A. 1990 1991
37 Supp. 74-8813 and amendments thereto.

38 (f) An applicant for a facility owner license or facility manager
39 license, or both, shall not be granted a license if there is substantial
40 evidence that the applicant for the license, or any officer or director,
41 stockholder, member or owner of or other person having a financial
42 interest in the applicant:

43 (1) Has been suspended or ordered to cease operation of a par-

1 imutuel racing facility in another jurisdiction by the appropriate
2 authorities in that jurisdiction, has been ordered to cease association
3 or affiliation with such a racing facility or has been banned from
4 such a racing facility;

5 (2) has been convicted by a court of any state or of the United
6 States of any criminal act involving fixing or manipulation of pari-
7 mutuel races, violation of any law involving gambling or controlled
8 substances, or drug violations involving horses or greyhounds, or
9 has been adjudicated in any such court of committing as a juvenile
10 an act which, if committed by an adult, would constitute such a
11 criminal act, or if any employee or agent assisting the applicant in
12 activities relating to ownership or management of a racetrack facility
13 or to the conduct of races has been so convicted or adjudicated;

IN the last
five years

14 (3) has been convicted by a court of any state or of the United
15 States of any felony involving dishonesty, fraud, theft, counterfeiting,
16 alcohol violations or embezzlement, or has been adjudicated in any
17 such court of committing as a juvenile an act which, if committed
18 by an adult, would constitute such a felony, or if any employee or
19 agent assisting the applicant in activities relating to ownership or
20 management of a racetrack facility or to the conduct of races has
21 been so convicted or adjudicated;

IN the last
five years

22 (4) has not demonstrated financial responsibility sufficient to meet
23 the obligations being undertaken pursuant to its contract with the
24 organization licensee;

25 (5) is not in fact the person or entity authorized to or engaged
26 in the licensed activity;

27 (6) is or becomes subject to a contract or option to purchase
28 under which 10% or more of the ownership or other financial interest
29 or membership interest are subject to purchase or transfer, unless
30 the contract or option has been disclosed to the commission and the
31 commission has approved the sale or transfer during the license
32 period;

33 (7) has made a statement of a material fact in the application or
34 otherwise in response to official inquiry by the commission knowing
35 such statement to be false; or

36 (8) has failed to meet any monetary or tax obligation to the federal
37 government or to any state or local government, whether or not
38 relating to the conduct or operation of a race meet held in this state
39 or any other jurisdiction.

40 (g) No person or entity shall be qualified to hold a facility man-
41 ager license if such person or entity, or any director, officer, em-
42 ployee or agent thereof, is addicted to, and a user of, alcohol or a
43 controlled substance.

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1 (h) All facility owner licenses and facility manager licenses shall
2 be reviewed annually by the commission to determine if the licensee
3 is complying with the provisions of this act and rules and regulations
4 of the commission and following such proposed plans and operating
5 procedures as were approved by the commission. The commission
6 may review a facility owner license or facility manager license more
7 often than annually upon its own initiative or upon the request of
8 any interested party. The commission shall require each facility
9 owner licensee and each facility manager licensee to file annually
10 with the commission a certified financial audit of the licensee by an
11 independent certified public accountant, which audit shall be open
12 to inspection by the public, and may require any such licensee to
13 provide any other information necessary for the commission to con-
14 duct the annual or periodic review.

15 (i) Subject to the provisions of subsection (j), the commission, in
16 accordance with the Kansas administrative procedure act, may sus-
17 pend or revoke a facility owner or facility manager license or may
18 impose a civil fine not exceeding \$10,000 per failure or violation, or
19 may both suspend such license and impose such fine, if the com-
20 mission finds probable cause to believe that:

21 (1) In the case of a facility owner licensee, the licensee has failed
22 to follow one or more provisions of the licensee's plans for the
23 financing, construction or operation of a racetrack facility as sub-
24 mitted to and approved by the commission; or (2) in the case of
25 either a facility owner licensee or facility manager licensee, the
26 licensee has violated any of the terms and conditions of licensure
27 provided by this section or any other provision of this act or any
28 rule and regulation of the commission.

29 (j) Prior to suspension or revocation of a license pursuant to
30 subsection (i), the commission shall give written notice of the reason
31 therefor to the licensee and all other interested parties. The licensee
32 shall have 30 days from receipt of the notice to cure the alleged
33 failure or violation, if it can be cured. If the commission finds that
34 the failure or violation has not been cured upon expiration of the
35 30 days or upon a later deadline granted by the commission, or if
36 the alleged violation is of such a nature that it cannot be cured, the
37 commission may proceed to suspend or revoke the licensee's license
38 pursuant to subsection (i). Nothing in this subsection shall be con-
39 strued to preclude the commission from imposing a fine pursuant
40 to subsection (i) even if the violation is cured within 30 days or such
41 other period as provided by the commission.

42 (k) If an applicant for a facility owner license proposes to construct
43 a racetrack facility and the commission determines that such license

1 should be issued to the applicant, the commission shall issue to the
2 applicant a facility owner license conditioned on the submission by
3 the licensee to the commission, within a period of time prescribed
4 by the commission, of a commitment for financing the construction
5 of the racetrack facility by a financial institution or other source,
6 subject to approval by the commission. If such commitment is not
7 submitted within the period of time originally prescribed by the
8 commission or such additional time as authorized by the commission,
9 the license shall expire at the end of such period.

10 (l) If a facility owner licensee's license authorizes the construction
11 of a dual racetrack facility, such license shall be conditioned on the
12 completion of such facility within a time specified by the commission.
13 If, within the time specified by the commission, the licensee has
14 not constructed a dual racetrack facility in accordance with the plans
15 submitted to the commission pursuant to subsection (e), the com-
16 mission, in accordance with the Kansas administrative procedure act,
17 shall:

18 (1) Impose upon the licensee a civil fine equal to 5% of the total
19 parimutuel pools for all races held at the licensee's facility on and
20 after the date that racing with parimutuel wagering is first conducted
21 at such facility and until the date that construction of the dual
22 racetrack facility is completed and horse racing has begun; and

23 (2) revoke the licensee's license unless the licensee demonstrates
24 reasonable cause for the failure to complete the facility.

25 (m) The refusal to renew a facility owner license or a facility
26 manager license shall be in accordance with the Kansas administrative
27 procedure act and shall be subject to review under the act for judicial
28 review and civil enforcement of agency actions.

29 (n) The grant or denial of an original facility owner license or
30 facility manager license shall not be subject to the Kansas admin-
31 istrative procedure act. Such grant or denial shall be a matter to be
32 determined in the sole discretion of the commission, whose decision
33 shall be final upon the grant of a license to one of two or more
34 competing applicants without the necessity of a hearing on the denial
35 of a license to each other competing applicant. Any action for judicial
36 review of such decision shall be by appeal to the supreme court in
37 accordance with the act for judicial review and civil enforcement of
38 agency actions, except that the scope of review shall be limited to
39 whether the action of the commission was arbitrary or capricious or
40 constituted an abuse of discretion. All competing applicants for the
41 facility owner license or facility manager license shall be parties to
42 such appeal. Any such appeal shall have priority over other cases
43 except those having statutory priority.

1 Sec. 7. K.S.A. 1991 Supp. 74-8816 is hereby amended to read
2 as follows: 74-8816. (a) The commission shall require occupation
3 licenses for:

4 (1) Any owner of a horse or greyhound participating in a race
5 conducted by an organization licensee;

6 (2) any person whose work, in whole or in part, is conducted
7 within a racetrack facility owned or leased by an organization li-
8 censee, including trainers, jockeys, agents, apprentices, grooms, ex-
9 ercise persons, veterinarians, valets, blacksmiths, stewards, racing
10 judges, starters, timers, supervisors of mutuels, parimutuel tellers
11 and clerks, guards and such other personnel designated by the
12 commission.

13 (b) An occupation license shall be obtained from the commission
14 prior to the time a person engages in activities for which such license
15 is required, regardless of whether a race meeting is being conducted.

16 (c) A person required to be licensed pursuant to subsection (a)
17 shall apply for such license in a manner and upon forms prescribed
18 and furnished by the commission. The commission may require the
19 applicant to submit to fingerprinting. Occupation licenses shall be
20 issued for a period established by the commission but not less than
21 one year or more than three years. The commission shall establish
22 the amount of application fees and license fees for different types
23 of occupation licenses, but no such fee shall exceed \$200 a year.
24 The application fee shall not be refundable if the applicant fails to
25 qualify for a license and shall include the cost of processing finger-
26 prints if they are required by the commission.

27 (d) The commission may require an applicant for an occupation
28 license as a condition of licensure to consent to allow agents of the
29 Kansas bureau of investigation or security personnel of the com-
30 mission to search without warrant the licensee's person, personal
31 property and work premises while within the racetrack facility or
32 adjacent facilities under the control of the organization licensee for
33 the purpose of investigating possible criminal violations of this act
34 or violations of rules and regulations of the commission.

35 (e) Denial of an occupation license by the commission shall be
36 in accordance with the Kansas administrative procedure act. The
37 commission may refuse to issue an occupation license to any person
38 who:

39 (1) Has been convicted of a felony by a court of any state or of
40 the United States or has been adjudicated in any such court of
41 committing as a juvenile an act which, if committed by an adult,
42 would constitute a felony;

in the last
five years

43 (2) has been convicted of a violation of any law of any state or

1 of the United States involving gambling or controlled substances or
2 ~~has been adjudicated in any such court of committing as a juvenile~~
3 ~~an act which, if committed by an adult, would constitute such a~~
4 ~~violation;~~

IN the last
FIVE YEARS

5 (3) is not qualified to perform the duties associated with the
6 license being applied for;

7 (4) fails to disclose any material fact or provides information,
8 knowing such information to be false, when applying for the license;

9 (5) has been found by the commission to have violated any pro-
10 vision of this act or any rule and regulation of the commission;

11 (6) has had an occupation license suspended, revoked or denied
12 for just cause in any other jurisdiction; or

13 (7) has committed two or more acts of violence within the past
14 two years as established by a court of competent jurisdiction of any
15 state or of the United States.

16 (f) The commission may suspend or revoke an occupation license
17 for any reason which would justify refusal to issue such a license
18 and may impose a fine not exceeding \$5,000 for each violation upon
19 any occupation licensee found to have violated any provision of this
20 act or any rule and regulation of the commission. Such fine may be
21 imposed in addition to or in lieu of suspending or revoking such
22 person's occupation license. Proceedings for the suspension or rev-
23 ocation of an occupation license or imposition of a fine pursuant to
24 this subsection shall be conducted by the commission or its appointed
25 hearing officer in accordance with the Kansas administrative pro-
26 cedure act.

27 (g) The commission may provide by rules and regulations for the
28 temporary suspension of an occupation license by summary adju-
29 dicative proceedings in accordance with the Kansas administrative
30 procedure act upon finding that there is probable cause to believe
31 that grounds exist for a permanent suspension or revocation of such
32 license. Such suspension shall be for a period not exceeding 30 days.
33 Upon expiration of such suspension, the license shall be restored
34 unless the license has been suspended or revoked pursuant to sub-
35 section (f).

36 (h) The stewards at any horse race meeting and the racing judges
37 at any greyhound race meeting may impose on an occupation licensee
38 a civil fine not exceeding \$500 or may suspend any occupation li-
39 censee's license for a period not exceeding 15 days upon a finding
40 by at least two of the stewards or racing judges that there is probable
41 cause to believe that the occupation licensee has violated the pro-
42 visions of this act or any rule or regulation of the commission. No
43 such fine or suspension shall be ordered except after notice and

1 opportunity for hearing in accordance with procedures established
2 by rules and regulations of the commission. Any order imposing such
3 a fine or suspension is effective when rendered. The order shall be
4 subject to appeal to the commission, and may be stayed pending
5 such appeal, as provided by rules and regulations of the commission.
6 Proceedings on appeal shall be in accordance with the provisions of
7 the Kansas administrative procedure act.

8 Sec. 8. K.S.A. 1991 Supp. 74-8817 is hereby amended to read
9 as follows: 74-8817. (a) No organization licensee or facility manager
10 licensee shall permit any business not owned and operated by the
11 organization licensee to sell goods within a racetrack facility where
12 the organization licensee conducts race meetings unless such business
13 has been issued a concessionaire license by the commission.

14 (b) Businesses required to be licensed pursuant to this section
15 shall apply for concessionaire licenses in a manner and upon forms
16 prescribed and furnished by the commission. The commission shall
17 require disclosure of information about the owners and officers of
18 each applicant and may require such owners and officers to submit
19 to fingerprinting. The commission also may require disclosure of
20 information about and fingerprinting of such employees of each ap-
21 plicant as the commission considers necessary. Concessionaire li-
22 censes shall be issued for a period of time established by the
23 commission but not to exceed 10 years. The commission shall es-
24 tablish a schedule of application fees and license fees for conces-
25 sionaire licenses based upon the type and size of business. The
26 application fee shall not be refundable if the business fails to qualify
27 for a license. If the application fee is insufficient to pay the reasonable
28 expenses of processing the application and investigating the appli-
29 cant's qualifications for licensure, the commission shall require the
30 applicant to pay to the commission, at such times and in such form
31 as required by the commission, any additional amounts necessary to
32 pay such expenses. No license shall be issued to an applicant until
33 the applicant has paid such additional amounts in full, and such
34 amounts shall not be refundable except to the extent that they exceed
35 the actual expenses of processing the application and investigating
36 the applicant's qualifications for licensure.

37 (c) The commission may require applicants as a condition of li-
38 censure to consent to allow agents of the Kansas bureau of inves-
39 tigation or security personnel of the commission to search without
40 warrant the licensee's premises and personal property and the per-
41 sons of its owners, officers and employees while engaged in the
42 licensee's business within the racetrack facility or adjacent facilities
43 under the control of the organization licensee for the purpose of

1 investigating criminal violations of this act or violations of rules and
2 regulations of the commission.

3 (d) Denial of a concessionaire license by the commission shall be
4 in accordance with the Kansas administrative procedure act. The
5 commission may refuse to issue a concessionaire license to any busi-
6 ness if any person having an ownership interest in such business,
7 any person who is an officer of such business or any person employed
8 by such business within the racetrack facility:

9 (1) ~~Has been convicted of a felony in a court of any state or of~~
10 ~~the United States or has been adjudicated in any such court of~~
11 ~~committing as a juvenile an act which, if committed by an adult,~~
12 ~~would constitute a felony;~~

IN the last five
YEARS

13 (2) ~~has been convicted of a violation of any law of any state or~~
14 ~~of the United States involving gambling or controlled substances or~~
15 ~~has been adjudicated in any such court of committing as a juvenile~~
16 ~~an act which, if committed by an adult, would constitute such a~~
17 ~~violation;~~

IN the last
FIVE YEARS

18 (3) ~~fails to disclose any material fact or provides information,~~
19 ~~knowing such information to be false, in connection with the ap-~~
20 ~~plication for the license; or~~

21 (4) ~~has been found by the commission to have violated any pro-~~
22 ~~vision of this act or any rule and regulation of the commission.~~

23 (e) The commission may suspend or revoke the concessionaire
24 license of any business for any reason which would justify refusal to
25 issue such a license. Proceedings to suspend or revoke such license
26 shall be conducted by the commission or its appointed hearing officer
27 in accordance with the provisions of the Kansas administrative pro-
28 cedure act.

29 (f) The commission may provide by rules and regulations for the
30 temporary suspension of a concessionaire license by summary ad-
31 judicative proceedings in accordance with the Kansas administrative
32 procedure act upon finding that there is probable cause to believe
33 that grounds exist for a permanent suspension or revocation of such
34 license. Such suspension shall be for a period not exceeding 30 days.
35 Upon expiration of such suspension, the license shall be restored
36 unless the license has been suspended or revoked as a result of
37 proceedings conducted pursuant to subsection (e).

38 New Sec. 9. (a) No organization licensee or facility manager li-
39 censee shall permit any business not owned and operated by the
40 organization licensee to provide totalisator equipment or services to
41 an organization licensee unless such business has been issued a
42 totalisator license by the commission.

43 (b) Businesses required to be licensed pursuant to this section

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1 shall apply for totalisator licenses in a manner and upon forms pre-
2 scribed and furnished by the commission. The commission shall
3 require disclosure of information about the owners and officers of
4 each applicant and may require such owners and officers to submit
5 to fingerprinting. The commission also may require disclosure of
6 information about and fingerprinting of such employees of each ap-
7 plicant as the commission considers necessary. Totalisator licenses
8 shall be issued for a period of time established by the commission
9 but not to exceed 10 years. The commission shall establish a schedule
10 of application fees and license fees for totalisator licenses based upon
11 the type and size of business. The application fee shall not be re-
12 fundable if the business fails to qualify for a license. If the application
13 fee is insufficient to pay the reasonable expenses of processing the
14 application and investigating the applicant's qualifications for licen-
15 sure, the commission shall require the applicant to pay to the com-
16 mission, at such times and in such form as required by the
17 commission, any additional amounts necessary to pay such expenses.
18 No license shall be issued to an applicant until the applicant has
19 paid such additional amounts in full, and such amounts shall not be
20 refundable except to the extent that they exceed the actual expenses
21 of processing the application and investigating the applicant's qual-
22 ifications for licensure.

23 (c) The commission may require applicants as a condition of li-
24 censure to consent to allow agents of the Kansas bureau of inves-
25 tigation or security personnel of the commission to search without
26 warrant the licensee's premises and personal property and the per-
27 sons of its owners, officers and employees while engaged in the
28 licensee's business within the racetrack facility or adjacent facilities
29 under the control of the organization licensee for the purpose of
30 investigating criminal violations of this act or violations of rules and
31 regulations of the commission.

32 (d) Denial of a totalisator license by the commission shall be in
33 accordance with the Kansas administrative procedure act. The com-
34 mission may refuse to issue a totalisator license to any business if
35 any person having an ownership interest in such business, any person
36 who is an officer of such business or any person employed by such
37 business within the racetrack facility:

38 (1) Has been convicted of a felony in a court of any state or of
39 the United States or has been adjudicated in any such court of
40 committing as a juvenile an act which, if committed by an adult,
41 would constitute a felony;

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

1 has been adjudicated in any such court of committing as a juvenile
2 an act which, if committed by an adult, would constitute such a
3 violation;

4 (3) fails to disclose any material fact or provides information,
5 knowing such information to be false, in connection with the ap-
6 plication for the license; or

7 (4) has been found by the commission to have violated any pro-
8 vision of this act or any rule and regulation of the commission.

9 (e) The commission may suspend or revoke the totalisator license
10 of any business for any reason which would justify refusal to issue
11 such a license. Proceedings to suspend or revoke such license shall
12 be conducted by the commission or its appointed hearing officer in
13 accordance with the provisions of the Kansas administrative proce-
14 dure act.

15 (f) The commission may provide by rules and regulations for the
16 temporary suspension of a totalisator license by summary adjudicative
17 proceedings in accordance with the Kansas administrative procedure
18 act upon finding that there is probable cause to believe that grounds
19 exist for a permanent suspension or revocation of such license. Such
20 suspension shall be for a period not exceeding 30 days. Upon ex-
21 piration of such suspension, the license shall be restored unless the
22 license has been suspended or revoked as a result of proceedings
23 conducted pursuant to subsection (e).

24 (g) This section shall be part of and supplemental to the Kansas
25 parimutuel racing act.

26 Sec. 10. K.S.A. 1991 Supp. 74-8824 is hereby amended to read
27 as follows: 74-8824. (a) There is hereby imposed a tax on admissions
28 to ~~racetrack facilities~~ *race meetings* at the rate of 10% of:

29 (1) The amount received from charges for admissions to ~~such~~
30 ~~facilities~~, excluding any amount paid for retailers' sales tax thereon
31 or for the tax imposed by subsection (b); and

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

35 The tax imposed by this subsection shall be remitted to the com-
36 mission by each organization licensee by the next business day fol-
37 lowing the day on which the admissions were paid or, if free or
38 complimentary, were used. The commission shall promptly remit
39 any such tax moneys received to the state treasurer, who shall deposit
40 the entire amount in the state treasury and credit it to the state
41 racing fund created by K.S.A. 1987 1991 Supp. 74-8826 *and amend-*
42 *ments thereto.*

43 (b) In addition to the tax imposed by subsection (a), there is

1 hereby imposed on each admission to a *race meeting* at a racetrack
2 facility which is exempt from local *ad valorem* property taxes a tax
3 of \$.20. Except as provided by subsection (c), such tax shall apply
4 regardless of whether the admission is paid, free or complimentary.

5 The tax imposed by this subsection shall be remitted to the com-
6 mission by each organization licensee by the next business day fol-
7 lowing the date of the admission. The commission shall promptly
8 remit any such tax moneys to the state treasurer, who shall deposit
9 the entire amount in the state treasury and credit it to the local
10 racing admissions tax fund which is hereby established in the state
11 treasury. All moneys credited to such fund shall be allocated to the
12 cities and counties in which racing facilities are located as follows:

13 (1) Each city where there is located a racing facility shall receive
14 $\frac{1}{2}$ the amount collected from the tax imposed pursuant to this sub-
15 section on admissions to ~~such~~ facility;

16 (2) each county where there is located a racing facility which is
17 also located within a city shall receive $\frac{1}{2}$ the amount collected from
18 the tax imposed pursuant to this subsection on admissions to ~~such~~
19 facility; and

20 (3) each county where there is located a racing facility which is
21 not located within any city shall receive the entire amount collected
22 from the tax imposed pursuant to this subsection on admissions to
23 ~~such~~ facility.

24 The state treasurer shall make distributions at least quarterly from
25 the local racing admissions tax fund. Such distributions shall be made
26 in accordance with appropriation acts upon warrants of the director
27 of accounts and reports, drawn in favor of the several county treas-
28 urers and city treasurers, pursuant to vouchers approved by the
29 executive director or a person designated by the executive director
30 in the amounts determined under this subsection.

31 (c) Organization licensees may issue to actual and necessary of-
32 ficials and employees of the licensee or other persons actually work-
33 ing at a ~~racetrack facility~~ *race meetings* passes to which the taxes
34 imposed by this section shall not apply. The issuance of such passes
35 is subject to rules and regulations of the commission and a list of
36 all persons to whom such passes are issued shall be filed with the
37 commission.

38
39 Sec. 11. K.S.A. 1991 Supp. 38-1607 is hereby amended to read
40 as follows: 38-1607. (a) *Official file*. The official file of proceedings
41 pursuant to this code shall consist of the complaint, process, service
42 of process, orders, writs and journal entries reflecting hearings held
43 and judgments and decrees entered by the court. The official file

1 shall be kept separate from other records of the court. The official
2 file shall be open for public inspection as to any juvenile 16 or more
3 years of age at the time any act is alleged to have been committed.
4 The official file shall be privileged as to any juvenile less than 16
5 years of age at the time any act is alleged to have been committed
6 and shall not be disclosed directly or indirectly to anyone except:

7 (1) A judge of the district court and members of the staff of the
8 court designated by the judge;

9 (2) parties to the proceedings and their attorneys;

10 (3) a public or private agency or institution having custody of
11 the juvenile under court order;

12 (4) law enforcement officers or county or district attorneys or
13 their staff when necessary for the discharge of their official duties;

14 (5) *the Kansas racing commission, upon written request of the*
15 *commission chairperson, for the purpose provided by K.S.A. 1991*
16 *Supp. 74-8804 and amendments thereto; and*

17 ~~(5)~~ (6) any other person when authorized by a court order, sub-
18 ject to any conditions imposed by the order.

19 (b) *Social file*. Reports and information received by the court
20 other than the official file shall be privileged and open to inspection
21 only by attorneys for the parties or upon order of a judge of the
22 district court or an appellate court. The reports shall not be further
23 disclosed by the attorney without approval of the court or by being
24 presented as admissible evidence.

25 (c) *Preservation of records*. The Kansas state historical society
26 shall be allowed to take possession for preservation in the state
27 archives of any court records related to proceedings under the Kansas
28 juvenile offenders code whenever such records otherwise would be
29 destroyed. The Kansas state historical society shall make available
30 for public inspection any unexpunged docket entry or official file in
31 its custody concerning any juvenile 16 or more years of age at the
32 time an offense is alleged to have been committed by the juvenile.
33 No other such records in the custody of the Kansas state historical
34 society shall be disclosed directly or indirectly to anyone for 100
35 years after creation of the records, except as provided in subsections
36 (a) and (b). Pursuant to subsections (a)(5) and (b), a judge of the
37 district court may allow inspection for research purposes of any court
38 records in the custody of the Kansas state historical society related
39 to proceedings under the Kansas juvenile offenders code.

40 (d) Relevant information, reports and records shall be made avail-
41 able to the department of corrections upon request and a showing
42 that the former juvenile has been convicted of a crime and placed
43 in the custody of the secretary of the department of corrections.

1 Sec. 12. K.S.A. 77-609 is hereby amended to read as follows:
2 77-609. (a) The district court shall conduct judicial review except
3 when:

4 (1) A statute specifically provides for review of an agency action
5 by appeal directly to the court of appeals; or

6 (2) otherwise provided by law.

7 (b) Except as otherwise provided by K.S.A. 8-259, 31-144, 44-
8 556, 72-5430a and 74-2426 and K.S.A. 1991 Supp. 74-8804, and
9 amendments thereto, venue is in the county in which the order or
10 agency action is entered or is effective or the rule and regulation is
11 promulgated.

12 Sec. 13. K.S.A. 77-609 and K.S.A. 1991 Supp. 38-1607, 74-8802,
13 74-8804, 74-8810, 74-8812, 74-8813, 74-8815, 74-8816, 74-8817 and
14 74-8824 are hereby repealed.

15 Sec. 14. This act shall take effect and be in force from and after
16 its publication in the statute book.