

Approved: 4-26-95
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on March 29, 1995 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Kim Perkins, Committee Secretary

Conferees appearing before the committee: Sen. August Bogina
Sen. Marge Petty
Sen. David Kerr
Judy Krueger, Appointment Secretary to the Governor

Others attending: See attached list

Sen. Oleen asked the committee to direct its attention to HB 2527, an act concerning alcoholic beverages; relating to revocation or suspension of a retailer's license. Sen. Oleen stated that she had asked the revisor to draft an amendment to the bill which would clarify the questions raised by Sen. Harris when the bill was first debated on the Senate floor (Attachment 1). Sen. Oleen stated that she would offer the balloon as a floor amendment if there was consensus by the committee.

Sen. Oleen called for a motion of Bernie Norwood as the confirmer for the position of Director of Alcoholic Beverage Control. Sen. Praeger made a motion to recommend Bernie Norwood for favorable confirmation and the motion was seconded by Sen. Gooch. The motion passed.

Sen. Oleen referred to SB 379, an act concerning the Kansas Racing Commission (KRC); relating to inspector of parimutuels and introduced Sen. Bogina, Chairperson of the Senate Ways and Means Committee. Sen. Bogina stated that currently the racing commission had not budget for Fiscal Year 1996 as their provisions have been stripped from the bill until a post audit report is completed. He further stated that the Kansas Racing Commission (KRC) needs to make strides to improve the perception of the commission as a regulatory body. Sen. Bogina also stated that he supported all of the amendments which Sen. Oleen would propose to reconcile SB 124, an act concerning the racing commission, and SB 379. Sen. Bogina introduced Sen. Petty and Sen. Kerr, members of the Senate Subcommittee on the KRC from Ways and Means, to further explain the committee's position on the bill.

Sen. Petty stated that the Ways and Means subcommittee had met with the KRC on two occasions to discuss the marketing budget, their auditing position, and to inquire about requirements for their auditors. Sen. Petty continued to say that the general impression of the subcommittee was that the financial information that was available to the subcommittee was lax at best. The subcommittee inquired and received information from Legislative Research which stated that the KRC employed one full-time auditor position in Wichita and at that time the commission was trying to reduce the number of auditors from the recommended four to only two positions. The recommendation of the subcommittee, Sen. Petty concluded, is to require that the racing commission employ four full-time auditors with a CPA requirement for the Inspector of Parimutuels, who is chief auditor. Sen. Petty stood for questions from the committee.

Sen. Ramirez stated that there are different levels of CPA requirements and, therefore, perhaps the committee should change the language of the bill to be more specific about the type of CPA required for the position of Inspector of Parimutuels.

Sen. Oleen introduced Judy Krueger, Appointment Secretary to the Governor, who stated that the office of the Governor does support the proposed changes to SB 379 and that the proposed amendments will improve the image of the racing commission.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:00 a.m. on March 29, 1995.

Sen. Oleen directed the committee's attention to a memorandum compiled by Legislative Research which outlined the proposed amendments to **SB 379** (Attachment 2) and called on Mary Torrence, Revisor of Statutes, to review the proposed amendments and to outline those amendments in the balloon distributed to the committee (Attachment 3).

Mary Torrence explained the need for technical amendments on page 9 of the balloon which would change the language so that full time auditors are not required at the intermittent tracks; and on page 12, section d, of the balloon which would change the language to align the bill with **SB 124**, an act concerning the racing commission. Sen. Tillotson made a motion to make the technical amendments and the motion was seconded by Sen. Praeger. The motion passed.

Mary Torrence directed the committee's attention to page 9, sections g and h, of the balloon which deal with employees in management positions and the requirement of a background check for those persons in addition to the Director of Parimutuels, the Executive Director, the Director of Security, and the Animal Health Officer. Mary Torrence stated that the language in section h provided for background checks for employees who have supervisory responsibilities, and those who have sensitive positions as determined by the racing commission.

Sen. Oleen stated that the committee did have a listing, compiled by the Kansas Racing Commission which outlined which positions have received KBI background checks in the past (Attachment 4). Sen. Oleen stated that the office of the Governor does want all KBI checks to be statutory and to require KBI checks in the positions, outlined in Attachment 4, which had not been required since 1991.

Sen. Tillotson referred to the question on levels of CPA's and what requirements auditors of the KRC should possess. Sen. Tillotson made a motion to amend the bill to read that the Inspector of Parimutuels should be a Certified Public Accountant with auditing experience. The motion was seconded by Sen. Ramirez; the motion passed.

Sen. Oleen referred to the policy questions raised on page 9 of the balloon in regard to the scope of KBI checks to be conducted and called for discussion. Sen. Walker made a motion to accept the language on page 9, section h, and to require that the positions listed in attachment 4 receive KBI checks at the discretion of the racing commission. Following discussion, Sen. Walker withdrew his motion.

Sen. Oleen further explained that the office of the Governor had expressed concern that not every position which they believed should have a KBI check was currently having one and that they wanted to send a stronger signal to the KRC. Sen. Ramirez made a motion that the five positions which had not received KBI checks since 1991 be required to have KBI checks and the motion was seconded by Sen. Papay. The motion passed.

Sen. Walker made a motion to accept the language on page 9, section h, of the balloon and the motion was seconded by Sen. Praeger. The motion passed.

Sen. Gooch made a motion to amend the balloon into **SB 379** and the motion was seconded by Sen. Tillotson. The motion passed.

Sen. Vidricksen asked if there would be additional costs to the KRC for the increased KBI checks and Mary Galligan, Legislative Research, stated that the industry would not accrue extra costs.

Sen. Tillotson made a motion to recommend favorable action on **SB 379**, as amended, and the motion was seconded by Sen. Ramirez. The motion passed.

Sen. Oleen called for further discussion, and seeing none, the meeting was adjourned at 11:55 a.m.

The next meeting is scheduled for March 31, 1995.

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Attachment 1

1 the place of business or brought in for that purpose;

2 (9) the employment of persons under 18 years of age in dispensing
3 or selling cereal malt beverages;

4 (10) the employment of persons who have been or continuation in
5 ~~employment hiring of a person who the licensee knows to have been,~~
6 *within the preceding two years, adjudged guilty of a felony or of any*
7 *violation of the intoxicating liquor law laws of this state, another state or*
8 *the United States; or*

employment or continuation in employment of a person
in connection with the sale, serving or dispensing
of cereal malt beverages if the licensee knows such
person has

9 (11) the sale or possession of, or permitting any person to use or
10 consume on the licensed premises, any alcoholic liquor as defined by
11 K.S.A. 41-102 and amendments thereto.

12 (b) The provisions of subsections (a)(8) and (11) shall not apply if the
13 place of business or premises are also currently licensed as a club or
14 drinking establishment pursuant to the club and drinking establishment
15 act.

16 (c) Within 20 days after the order of the board revoking or suspending
17 any license, the licensee may appeal to the district court and the district
18 court shall proceed to hear such appeal as though such court had original
19 jurisdiction of the matter. Any appeal taken from an order revoking or
20 suspending the license shall not suspend the order of revocation or sus-
21 pension during the pendency of any such appeal. In case of the revocation
22 of the license of any licensee, no new license shall be issued to the former
23 licensee, or to any person acting for or on the former licensee's behalf,
24 for a period of six months thereafter.

25 Sec. 5. K.S.A. ~~41-2708~~ is 41-2601, 41-2614, 41-2642 and 41-
26 2708 are hereby repealed.

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

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

300 S.W. 10th Avenue
Room 545-N – Statehouse

Phone 296-3181

March 29, 1995

TO: Senator Lana Oleen

Office No. 136-N

RE: Proposed Amendments to S.B. 379

Per our meeting today, you have instructed that the following amendments be prepared for incorporation into S.B. 379.

1. The Governor will be required to have a background investigation conducted on the Executive Director and appointees to the Racing Commission.
2. All employees of the Racing Commission will be subject to a criminal record check, and persons with felony convictions will not be qualified to work for the Commission.
3. The Inspector of Parimutuels, the Animal Health Officer, Director of Security, and persons in management positions will be subject to full KBI background investigations.
4. Require a review of the Racing Commission and an evaluation of implementation and enforcement of parimutuel racing laws. The examination would be conducted by the Division of Legislative Post Audit which would be authorized to contract for the study at the discretion of the Legislative Post Audit Committee.
5. The Commission will be required to have an auditor at each track.
6. The Inspector of Parimutuels will be required to be a CPA. (The latter provision is the original content of S.B. 379.)
7. The Governor will appoint the chairperson of the Commission and the Executive Director. (These provisions are in S.B. 124 as passed by the Senate.)
8. The Commissioners will be appointed to four-year terms. Under existing law, Commissioners serve three-year terms. (This provision is in S.B. 124 as passed by the Senate.)

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(Attachment 2)

9. Delete the statutory requirement for a Director of Racing position. (This provision is in S.B. 124 as passed by the Senate.)

10. Permit any appointee or employee of the Racing Commission to participate directly or indirectly as an owner, owner-trainer, or trainer of a horse or greyhound, or as a jockey of a horse, entered in a race that is simulcast into Kansas. (This provision is in S.B. 124 as passed by the Senate.)

I hope this information is useful to you.



Mary K. Galligan
Principal Analyst

MKG/pb

Proposed Amendment to Senate Bill No. 379

Section 1. K.S.A. 74-8803 is hereby amended to read as follows: 74-8803. (a) There is hereby created the Kansas racing commission, consisting of five members who shall be appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto.

(b) Before appointing any person as a member of the commission, the governor shall cause a criminal history record check and background investigation of the person to be conducted.

(c) The members of the commission shall meet the following qualifications:

(1) Each member shall be a citizen of the United States and an actual resident of Kansas at the time of appointment and during such member's term of office with the commission;

(2) each member shall have been a resident of Kansas for a continuous period of not less than five years immediately preceding appointment to the commission; and

(3) no member shall have been convicted of a felony under the laws of any state or of the United States at any time prior to appointment or during such member's term of office with the commission.

~~(c)~~ (d) The governor shall make appointments to the commission in such a manner that:

(1) Not more than three members belong to the same political party at the time of appointment and during their terms of office with the commission; and

(2) subject to the provisions of K.S.A. 1992-Supp. 75-4315c and amendments thereto, each congressional district has at least one member residing in such district at the time of appointment.

~~(d)--of-the-members-first-appointed-to--the--commission,--the governor--shall--designate--one--whose-term--shall--expire--June--30, 1988,--two--whose--terms--shall--expire--June--30, 1989,--and--two--whose terms--shall--expire--June--30, 1990.--After--the--expiration--of--such initial--terms,--each--member--shall--be--appointed~~ (e) Each member

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appointed before July 1, 1995, shall serve for a term of three years and until a successor is appointed and qualified. Each member appointed on or after July 1, 1995, shall serve for a term of four years and until a successor is appointed and qualified.

{e} (f) A vacancy on the commission shall be filled for the unexpired term by appointment by the governor.

{f} (g) The commission shall meet at such times and places within this state as the chairperson or a majority of the commission members determines. A majority of the members shall constitute a quorum for the conduct of commission business.

{g} (h) The governor shall designate a member of the commission as chairperson of the commission, to serve in that capacity at the pleasure of the governor. The members of the commission annually shall elect a chairperson, vice-chairperson and secretary from the membership of the commission. ~~No member of the commission shall serve more than two consecutive terms as the chairperson.~~

{h} (i) Members of the commission shall receive such compensation as determined by the governor, subject to the limitations of appropriations therefor, and, when attending meetings of the commission, or a subcommittee meeting thereof approved by the commission, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

Sec. 2. K.S.A. 1994 Supp. 74-8804 is hereby amended to read as follows: 74-8804. (a) During race meetings, the commission and its designated employees may observe and inspect all racetrack facilities operated by licensees and all racetracks simulcasting races to racetrack facilities in Kansas, including but not limited to all machines, equipment and facilities used for parimutuel wagering.

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

(c) The commission may examine, or cause to be examined by any agent or representative designated by the commission, any books, papers, records or memoranda of any licensee, or of any racetrack or business involved in simulcasting races to racetrack facilities in Kansas, for the purpose of ascertaining compliance with any provision of this act or any rule and regulation adopted hereunder.

(d) The commission may issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any licensee or officer, member, employee or agent of any licensee, or to compel the appearance of any licensee or officer, member, employee or agent of any licensee, or of any racetrack or business involved in simulcasting races to racetrack facilities in this state, for the purpose of ascertaining compliance with any of the provisions of this act or any rule and regulation adopted hereunder. Subpoenas issued pursuant to this subsection may be served upon individuals and corporations in the same manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the commission or an agent or representative designated by the commission. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

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

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

(1) Who has violated the provisions of this act or any rule

and regulation or order of the commission;

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

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

(g) The commission shall review and approve all proposed construction and major renovations to racetrack facilities owned or leased by licensees.

(h) The commission shall review and approve all proposed contracts with racetracks or businesses involved in simulcasting races to racetrack facilities in Kansas.

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

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

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

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

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

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

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

(k) The commission, after notice and a hearing in accordance with rules and regulations adopted by the commission, may impose a civil fine not exceeding \$5,000 for each violation of any provision of this act, or any rule and regulation of the commission, for which no other penalty is provided.

(l) The commission shall adopt rules and regulations specifying and regulating:

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

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

(m) The commission may adopt rules and regulations providing for the testing of any licensees of the commission, and any officers, directors and employees thereof, to determine whether they are users of any controlled substances.

(n) The commission ~~may~~ shall require fingerprinting of all persons necessary to verify qualification for employment by the commission or qualification for any license, including a simulcasting license, issued pursuant to this act. The commission shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.

(o) The commission may receive from commission security personnel, the Kansas bureau of investigation or other criminal justice agencies such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background

investigations as necessary for the purpose of determining qualifications of licensees of the commission, employees of the commission, applicants for employment by the commission, and applicants for licensure by the commission, including applicants for simulcasting licenses. Upon the written request of the chairperson of the commission, the commission may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of licensees of and applicants for licensure by the commission and employees and applicants for employment by the commission. Such information, other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the commission as necessary to determine qualifications of such licensees, employees and applicants. Any other disclosure of such confidential information is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act.

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

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

Sec. 3. K.S.A. 74-8805 is hereby amended to read as follows: 74-8805. (a) (1) The commission governor shall appoint, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto, an executive director of the commission, to serve at the pleasure of the commission governor and under the supervision of the commission. Before appointing any person as executive director, the governor shall cause a criminal history record check and background investigation of the person to be conducted.

(2) The executive director shall: (A) Be in the unclassified

service under the Kansas civil service act; (B) devote full time to the executive director's assigned duties; (C) receive such compensation as determined by the commission, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment by the commission; (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) have familiarity with the horse and dog racing industries sufficient to fulfill the duties of the office of executive director.

(3) The executive director shall: (A) Recommend to the commission the number and qualifications of employees necessary to implement and enforce the provisions of this act; (B) employ persons for those positions approved by the commission, subject to the limitations of appropriations therefor; and (C) perform such other duties as directed by the commission.

(b) (1) The executive director shall appoint an inspector of parimutuels to serve at the pleasure of the executive director. Before appointing any person as inspector of parimutuels, the executive director shall cause a criminal history record check and background investigation of the person to be conducted.

(2) The inspector of parimutuels shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the inspector's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as inspector of parimutuels; ~~and~~ (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) be a certified public accountant.

(3) The inspector of parimutuels shall: (A) Inspect and audit the conduct of parimutuel wagering by organization licensees, including the equipment and facilities used and procedures followed; (B) train and supervise such personnel as employed by the executive director to assist with such duties;

and (C) perform such other duties as directed by the executive director.

(c) (1) The executive director shall appoint a director of security to serve at the pleasure of the executive director. Before appointing any person as director of security, the executive director shall cause a criminal history record check and background investigation of the person to be conducted.

(2) The director of security shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the security director's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as director of security; (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) be a professional law enforcement officer with a minimum of five years' experience in the field of law enforcement and at least a bachelor's degree in law enforcement administration, law, criminology or a related science or, in lieu thereof, a minimum of 10 years' experience in the field of law enforcement.

(3) The director of security shall: (A) Conduct investigations relating to compliance with the provisions of this act and rules and regulations of the commission; (B) recommend proper security measures to organization licensees; (C) train and supervise such personnel as employed by the executive director to assist with such duties; and (D) perform such other duties as directed by the executive director.

~~(d)--(1)--The--executive--director--may--appoint--a--director--of--racing--operations--to--serve--at--the--pleasure--of--the--executive--director;~~

~~(2)--The--director--of--racing--operations--shall:--(A)--Be--in--the--unclassified--service--under--the--Kansas--civil--service--act;--(B)--devote--full--time--to--the--director's--assigned--duties;--(C)--receive--such--compensation--as--determined--by--the--executive--director;--subject--to--the--limitations--of--appropriations--therefor;--(D)--be--a~~

citizen--of--the--United--States--and--an--actual--resident--of--Kansas during--employment--as--director--of--racing--operations;--(E)--not--have been--convicted--of--a--felony--under--the--laws--of--any--state--or--of--the United--States--prior--to--or--during--employment--by--the--commission; and--(F)--have--a--minimum--of--10--years'--experience--in--racing operations.

(3)--The--director--of--racing--operations--shall:--(A)--Supervise racing--operations;--including--stewards--and--racing--judges;--(B)--be responsible--for--training--and--education--of--stewards--and--racing judges;--(C)--advise--the--commission--on--necessary--or--desirable changes--in--rules--and--regulations--relating--to--conduct--of--races; (D)--train--and--supervise--such--personnel--as--employed--by--the executive--director--to--assist--with--such--duties;--and--(E)--perform such--other--duties--as--directed--by--the--executive--director.

(d) The executive director shall employ an auditor at each racetrack facility licensed pursuant to this act, to assist the inspector of parimutuels with the inspector's duties.

(e) The commission may appoint an advisory committee of persons knowledgeable in the horse and greyhound breeding and racing industries to provide information and recommendations to the commission regarding the administration of this act. Members of such advisory committee shall serve without compensation or reimbursement of expenses.

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

(g) No employee of the commission shall have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission. Before employing any person, the commission shall require a criminal history record check of the person to be conducted.

(h) Before employing any person in a (position having supervisory responsibility) (sensitive positions, as determined appropriate by the commission), the commission shall cause a background check of the person to be conducted.

Sec. 4. K.S.A. 74-8806 is hereby amended to read as follows:

74-8806. (a) The commission shall employ an animal health officer and such assistant animal health officers as needed to serve at the pleasure of the commission. Such Before employing any person as the animal health officer, the commission shall cause a criminal record check and background investigation of the person to be conducted.

(b) The animal health officer and assistant animal health officers shall:

- (1) Be doctors of veterinary medicine;
- (2) be in the unclassified service under the Kansas civil service act;
- (3) receive such compensation as determined by the commission, subject to the limitations of appropriations therefor; and
- (4) while employed by the commission, devote full time to the duties of the office.

~~(b)~~ (c) The animal health officer shall:

- (1) Supervise the formulation, administration and evaluation of all medical tests the commission's rules and regulations require or authorize;
- (2) advise the commission on all aspects of veterinary medicine relating to its powers and duties;
- (3) supervise all personnel involved in conducting physical examinations and medical testing of racing animals, as directed by the executive director; and
- (4) perform such other duties as directed by the commission.

~~(c)~~ (d) The assistant animal health officers shall:

- (1) Conduct physical examinations and medical tests of racing animals as prescribed by the commission;
- (2) administer emergency treatment of racing animals at race meetings as authorized by the owners of such animals or their agents; and

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

~~(d)~~ (e) The animal health officer or an assistant animal health officer may possess and administer drugs and medications to horses and greyhounds within a racetrack facility as

authorized by rules and regulations of the commission.

~~(e)~~ (f) The commission may require an organization licensee to reimburse the commission for services performed by assistant animal health officers at race meetings conducted by the organization licensee.

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

~~(g)~~ (h) The commission shall contract with one or more laboratory facilities for the analysis of samples taken for the purpose of enforcing compliance with K.S.A. 74-8811 and amendments thereto. In entering into any contract under this subsection, the commission shall give preference to laboratory facilities located in this state.

Sec. 5. K.S.A. 1994 Supp. 74-8810 is hereby amended to read as follows: 74-8810. (a) It is a class A nonperson misdemeanor for any person to have a financial interest, directly or indirectly, in any racetrack facility within the state of Kansas or in any host facility for a simulcast race displayed in this state:

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

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

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

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

licensee;

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

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

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

(c) It is a class A nonperson misdemeanor for any member of the commission or the executive director to participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a simulcast race meeting displayed in this state.

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

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

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

(d) (e) It is a class A nonperson misdemeanor for any officer, director or member of an organization licensee, other than a fair association or horsemen's nonprofit organization, to:

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

(2) enter into any business dealing, venture or contract with the organization licensee or, other than in the capacity of an officer or director of the organization licensee, with a facility owner licensee, facility manager licensee, racing or wagering equipment or services license or concessionaire licensee, or with any host facility for a simulcast race displayed in this state.

~~(e)~~ (f) It is a class A nonperson misdemeanor for any facility owner licensee or facility manager licensee, other than a horsemen's association, or any officer, director, employee, stockholder or shareholder thereof or any person having an ownership interest therein, to participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a live race conducted in this state.

~~(f)~~ (g) It is a class A nonperson misdemeanor for any licensee of the commission, or any person who is an officer, director, member or employee of a licensee, to place a wager at a racetrack facility located in Kansas on an entry in a horse or greyhound race if:

(1) The commission has by rules and regulations designated such person's position as a position which could influence the outcome of such race or the parimutuel wagering thereon; and

(2) such race is conducted at or simulcast to the racetrack facility where the licensee is authorized to engage in licensed activities.

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

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

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

(2) accept, transmit or deliver, from a person outside a racetrack facility, anything of value to be wagered in any

parimutuel system of wagering within a racetrack facility, upon conviction of the first offense;

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

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

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

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

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

(j) It is a severity level 8, nonperson felony for any person to:

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

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

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

(4) enter any horse or greyhound in any race conducted by an

organization licensee knowing that the class or grade in which such horse or greyhound is entered is not the true class or grade or knowing that the name under which such horse or greyhound is entered is not the name under which such horse or greyhound has been registered and has publicly performed;

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

(6) possess or conspire to possess, within the confines of a racetrack facility, any device, other than an ordinary whip for horses or a mechanical lure for greyhounds, designed or intended to affect the speed of a horse or greyhound;

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

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

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

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

(11) alter or attempt to alter the natural outcome of any race conducted by, or any simulcast race displayed by, an organization licensee or transmit or receive an altered race or delayed broadcast race if parimutuel wagering is conducted or

solicited after off time of the race;

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

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

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

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

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

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

New Sec. 6. (a) The legislative post auditor shall conduct a performance audit of the commission's regulatory and enforcement activities and shall report findings and recommendations based on such audit to the house and senate standing committees on federal and state affairs, the senate committee on ways and means and the

house committee on appropriations on or before the first day of the regular legislative session in 2002. The performance audit shall include but not be limited to an evaluation of the commission's enforcement of licensing and other requirements imposed by the Kansas racing act, civil and criminal actions taken by the commission to enforce laws relating to racing and parimutuel wagering on racing and the commission's collection of taxes and other revenues derived from parimutuel wagering.

(b) The post auditor may contract with a firm, as defined by K.S.A. 46-1112 and amendments thereto, to perform the audit provided for by this section. Such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123 and 46-1125 through 46-1127, and amendments thereto.

(c) The post auditor shall compute the reasonably anticipated cost of providing an audit pursuant to this section, subject to review and approval by the contract audit committee established by K.S.A. 46-1120 and amendments thereto. Upon such approval, the commission shall reimburse the division of post audit for the amount approved by the contract audit committee. The furnishing of audit services pursuant to this section shall be a transaction between the post auditor and the commission and shall be settled in accordance with the provisions of K.S.A. 75-5516 and amendments thereto.

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

Sec. 7. K.S.A. 1994 Supp. 21-3612 is hereby amended to read as follows: 21-3612. (a) Contributing to a child's misconduct or deprivation is:

(1) Causing or encouraging a child under 18 years of age to become or remain a child in need of care as defined by the Kansas code for care of children;

(2) causing or encouraging a child under 18 years of age to commit a traffic infraction or an act which, if committed by an adult, would be a misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection ~~(j)~~ (k) of K.S.A. 74-8810 and amendments thereto;

(3) failure to reveal, upon inquiry by a uniformed or properly identified law enforcement officer engaged in the performance of such officer's duty, any information one has regarding a runaway, with intent to aid the runaway in avoiding detection or apprehension;

(4) sheltering or concealing a runaway with intent to aid the runaway in avoiding detection or apprehension by law enforcement officers; or

(5) causing or encouraging a child under 18 years of age to commit an act which, if committed by an adult, would be a felony.

Contributing to a child's misconduct or deprivation as described in subsection (a)(1), (2) or (3) is a class A nonperson misdemeanor. Contributing to a child's misconduct or deprivation as described in subsection (a)(4) is a severity level 8, person felony. Contributing to a child's misconduct or deprivation as described in subsection (a)(5) is a severity level 7, person felony.

(b) A person may be found guilty of contributing to a child's misconduct or deprivation even though no prosecution of the child whose misconduct or deprivation the defendant caused or encouraged has been commenced pursuant to the Kansas code for care of children, Kansas juvenile offenders code or Kansas criminal code.

(c) As used in this section, "runaway" means a child under 18 years of age who is willfully and voluntarily absent from:

(1) The child's home without the consent of the child's parent or other custodian; or

(2) a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

(d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 8. K.S.A. 1994 Supp. 38-1502 is hereby amended to read as follows: 38-1502. As used in this code, unless the context

otherwise indicates:

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

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

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

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

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

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

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

(7) except in the case of a violation of K.S.A. 41-727 or subsection ~~(j)~~ (k) of K.S.A. 74-8810 or, except as provided in subsection (a)(12), K.S.A. 1994 Supp. 21-4204a and amendments thereto, does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

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

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

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

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused; or

(12) while less than 10 years of age commits the offense defined in K.S.A. 1994 Supp. 21-4204a and amendments thereto.

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

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

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

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

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

(g) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and

which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

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

(i) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

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

(k) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

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

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

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

(o) "Secretary" means the secretary of social and

rehabilitation services.

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

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

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

(s) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(t) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

Sec. 9. K.S.A. 1994 Supp. 38-1602 is hereby amended to read as follows: 38-1602. As used in this code, unless the context otherwise requires:

(a) "Juvenile" means a person 10 or more years of age but

less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 1994 Supp. 21-4204a or, K.S.A. 41-727 or subsection (j) (k) of K.S.A. 74-8810, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117 and amendments thereto;

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

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

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

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

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

(7) a person 16 years of age or over who has been adjudicated to be a juvenile offender under the Kansas juvenile offender's code and who is charged with committing a felony or more than one offense of which one or more is a felony while confined in any training or rehabilitation facility under the jurisdiction and control of the department of social and rehabilitation services or while running away or escaping from any such institution or facility.

(c) "Parent," when used in relation to a juvenile or a

juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the juvenile.

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

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

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which must not be a jail.

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

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

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

(j) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(k) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 38-1606 and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in section 16--of--1994--Senate--Bill--No--657 K.S.A. 1994 Supp. 38-1606a and amendments thereto, in a proceeding pursuant to this code.

Sec. 10. K.S.A. 74-8803, 74-8805 and 74-8806 and K.S.A. 1994 Supp. 21-3612, 38-1502, 38-1602, 74-8804 and 74-8810 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

KRC EMPLOYEE BACKGROUNDS

Data compiled from commission background records from December 1991 to present.

Position	KBI	KRC
Executive Director	X	
Deputy Director	X	
Director of Security	X	
Animal Health Officer	Prior to 1991	
Inspector of Parimutuels	Prior to 1991	
Accountant	X	
Computer Systems Analyst	X	X
Legal Assistant	X	
Auditor	X	
Racing Judges	X	X
Stewards	X	
Special Investigator	X	
Assistant Animal Health Officer		X
Office Supervisor	Prior to 1991	
Human Resource Manager	Prior to 1991	
Office Specialist	Prior to 1991	
Secretary		X
Bookkeeper		X
Keyboard Operator		X
Office Assistants		X
Temporaries		X

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 (Attachment 4)