

Approved: 3-14-96
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on March 6, 1996 in Room 519-S of the Capitol.

All members were present except: Representative David Adkins, Absent
Representative Clyde Graeber, Absent
Representative Steve Lloyd, Absent

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

Conferees appearing before the committee: Ellen Piekalkiewicz, Association of Community Mental Health Centers
Kim Gulley, Assistant General Counsel, League of Kansas Municipalities
Cindy Lash, Legislative Post Audit
Myron Scafe, Executive Director, Kansas Racing Commission

Others attending: See attached list

The Chairperson mentioned that the minutes of February 20, 21, 22 and 26 had been distributed and would be approved later in the meeting. Also, a list of committee bills was distributed. The Chairperson stated if there was no interest in the bills he would ask for a motion to pass them out of committee with no action, if anyone objected to this please let him know.

The hearing was continued on **HB 2344 - Drug and alcohol programs eligible for drink tax revenues.**

Ellen Piekalkiewicz, Association of Community Mental Health Centers of Kansas, Inc., appeared requesting an amendment to **HB 2344** since the current language would exclude three CMHCs which are governmental agencies and not nonprofit agencies. On page 2, line 34 and on page 3, line 24 after the word "agencies" add "or by community mental health centers licensed pursuant to K.S.A. 75-3307b, and amendments thereto." Ms. Piekalkiewicz stated their wish was that mental health centers not be excluded (See Attachment #1).

The Chairperson asked staff if they could prepare an amendment requesting mental health centers be included.

Mary Torrence, Revisor of Statutes Office, stated the committee needed to consider whether they wanted to limit the use of those funds to the agencies that have the primary purpose delivering these services or programs or whether they want it limited to services and programs that have the primary purpose and if you take the latter, mental health centers could be included in a different way but if want it limited to agencies that have the primary purpose, then something along this line would do that.

Representative Cox recommended that schools might be included in the amendment.

The Chairman stated the amendment would be considered at the time the bill was worked.

Kim Gulley, Assistant General Counsel, League of Kansas Municipalities, testified opposing **HB 2344**. Seventy percent of the funds collected under the alcoholic drink tax are returned to local governments for distribution. The League's objections are twofold. First, although the state currently specifies how much money must be deposited into the alcohol and drug programs fund, the further distribution of these funds to grant applications is left up to the discretion of the locally elected officials. These local officials must evaluate the needs of their particular community and distribute the funds to address these needs. **HB 2344** narrows the possible recipients of alcohol and drug programs money to such an extent as to remove all discretion from local governing bodies. In fact, it is even possible that a city that does not currently have a nonprofit agency operating one of these facilities would have no means to distribute the money at all.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S
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Second, this bill would prohibit prevention and treatment programs which are part of other entities from receiving these funds. In other words, local DARE programs, students against drunk driving campaigns, and other educational campaigns would not be eligible for this funding. All prevention programs administered by local law enforcement agencies or other entities who do not maintain a treatment facility would be prohibited from receiving funds under the provisions of this bill. (See Attachment #2)

The Chairperson closed the hearing on HB 2344.

The Chairperson opened the hearing on SB 663 - Concerning Racing with Parimutuel Wagering.

Mary Torrence, Revisor of Statutes office, gave a briefing stating the bill was introduced by Legislative Post Audit Committee at the request of the Racing Commission. The first amendment in the bill is the definition of the word "contract" on page 1, beginning on line 30. The definition ties into the requirement in the Racing Act that certain licensees have to have contracts approved by the Commission. There needed to be a clarification as to what a contract actually is. The next amendment in the bill is on page 5, line 10 and is again an amendment by the Senate Committee and it provides compensation of the Executive Director as determined by the "Governor" rather than by the "commission": The Governor is the person that appoints the Executive Director and requested by the Governor's office. On page 6, line 37 there was a change to the amount of experience required for Director of Racing from "10" and was changed to "five" years. That position has not yet been filled. It was felt they would be more able to fill that position at the salary provided if experience was changed.

On page 7, line 25 there was a change from "special investigator" to "enforcement agent". The final amendment appears on page 15, line 18 insert "live" before horse races and that provision requires that a simulcast licensee conduct a certain percentage of horse races. There has been a court case that interpreted the conduct of horse races to include not only the conduct of live racing but display of simulcast races. The Commission has allowed fewer days of racing than had previously been required because of that court case and insertion of the live horse racing requirement back in there would make it more to what the original law was before simulcast racing. The amendment on line 20 was a committee amendment that would give the Commission flexibility in determining whether to revoke an organization licensee's license if they don't comply with the percentage requirement of this sub-section rather than requiring revocation and in line 22 it is just a technical amendment because the facility has been completed.

Cindy Lash, Legislative Post Audit, gave a background briefing on SB 663. In relation to the definition of the term "contract" all of the audits at the race tracks and the Commission there were problems with not filing of contracts. Even though there are existing regulations that require them to be filed there has never been a definition of "contract" and it is felt the inclusion of this would strengthen the Commission's ability to get contracts filed. In terms of the Director of Racing experience requirement, found in 1990 the Legislature added that position to the statute because they wanted someone on staff with experience in racing and it has never been filled and felt that it was an important position and needed to be filled. The Commission has indicated they need to downgrade this experience requirement in order to bring someone on board. The 20% live horse racing is basically because of the State Supreme Court Decision that required simulcast races be counted as races conducted and the Woodlands would no longer have to offer hardly any live races.

Myron E. Scafe, Executive Director, Kansas Racing Commission, testified in support of SB 663, stating the bill was introduced by Legislative Post Audit Committee at the request of the Kansas Racing Commission in response to concerns raised by the recent audits of various entities within the parimutuel racing industry. All of the proposals have been the subject of public discussion at one or more Kansas Racing Commission meetings. No opposition to the proposals contained in SB 663 has been evident. (See Attachment #3)

The Chairperson closed the hearing on SB 663.

The Chairperson opened the hearing on SB 708 - Concerning Racing with Parimutuel Wagering.

Mary Torrence gave a briefing on SB 708, stating it was introduced by the Senate Committee on Federal and State Affairs at the request of the Racing Commission. The first amendment to the bill inserts a definition "crossover employment". This would address a situation in which an occupational licensee is concurrently employed at the same racing facility by an organization licensee and a facility owner licensee or facility manager licensee. There are amendments on page 16 and 21 that go along with that and would allow the Commission to adopt the rules and regulations to regulate that crossover employment by the occupational licensees. The occupational licensees are virtually everyone that is employed at the racetrack facility. On page 5 of the bill there is an amendment to the criminal provisions of the Racing Act that appears on line 29. These are prohibitions that are conflict of interest type prohibitions that don't allow employees or members of the Commission or relatives of those people to hold licenses under the Racing Act or entering into business dealings with a racetrack facility in that son-in-laws and daughter-in-laws were inadvertently excluded. On

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page 16 are amendments that were also in **SB 663**. The language regarding the rules and regulations regulate crossover employment in lines 35-37 on page 16. On page 21, lines 4-6 were added on crossover employment. In Section 5 there are amendments relating to stewards and racing judges. Currently, the commission is authorized to appoint a total of 3 stewards and racing judges. The bill would change that to authorize at least 3 stewards or racing judges at each race meet and limit it to only 3 on duty at any one time. In line 15 it makes it clear the stewards and racing judges are under the supervision of the Executive Director of the Commission and on lines 34 and 35 the language allows employees of the Commission to act as racing judges and stewards. Currently, they can't because an employee of the Commission can't hold a license and that language requires stewards and racing judges to hold a license. On page 23 of the bill, this amends the simulcasting provisions of the Act, it would change from 10 per day to 8 per day and require an average of 10 per day per week as a minimum number of live races that would have to be conducted by simulcast licensees. The amendment in line 32 changes the maximum number of weeks that fair associations would be allowed to conduct.

Cindy Lash, Legislation Post Audit, gave a background briefing, stating there was one issue in **SB 708** relating to the audit and that was allowing unlicensed Commission staff to act as judges. The statutes require that judges and stewards be licensed and pass an examination before they can be licensed. When doing the audit found that the Deputy Director who was also the Acting Director was serving as a judge at the Woodlands and she was not licensed and had not taken the exam which we felt was a problem. The Commission indicated that they did not really see this problem but they had legislation proposed to allow their qualified staff act as judges without being licensed.

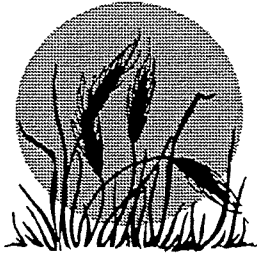
Myron E. Scafe, Executive Director, Kansas Racing Commission, testified on **SB 708** and offered an amendment (See Attachments #4 and #5).

The Chairperson closed the hearing on **SB 708**.

Representative Standifer moved and Representative Gilbert seconded to approve the minutes of February 20, 21, 22 and 26. The motion carried.

The meeting adjourned at 2:40 p.m.

The next meeting is scheduled for March 13, 1996.



**Association of Community
Mental Health Centers of Kansas, Inc.**
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**Testimony on H.B. 2344
Presented to House Federal and
State Affairs Committee
by Ellen Z. Piekalkiewicz**

March 6, 1996

The Association of Community Mental Health Centers (CMHCs) requests an amendment to H.B. 2344 since the current language would exclude three CMHCs which are governmental agencies and not nonprofit agencies.

We recommend the following amendment on page 2, line 34 and on page 3, line 24 after the word agencies,

"or by community mental health centers licensed pursuant to K.S.A. 75-3307b, and amendments thereto."

One of the CMHCs which would be excluded is Johnson County Mental Health Center which operates a major detox center for the region. The Center's ability to continue this program would be difficult if H.B. 2344 is passed in its present form.

F.S.A
3-6-96
Atch #1



**League of
Kansas
Municipalities**

**Legal Department
300 S.W. 8th
Topeka, Kansas 66603**

Phone: (913) 354-9565/ Fax: (913) 354-4186

Legislative Testimony

To: House Federal and State Affairs Committee

From: Kim Gulley, Assistant General Counsel

Date: March 5, 1996

Re: Opposition to HB 2344

Thank you for allowing the League to appear today in opposition to HB 2344. Seventy percent of the funds collected under the alcoholic drink tax are returned to local governments for distribution. Current law restricts the use of these funds. For example, in a city with a population of more than 6,000, 1/3 of the funds are deposited in the general fund, 1/3 go to a parks and recreation fund, and 1/3 goes to a special alcohol and drug programs fund. Although K.S.A. Supp. 79-41a04 and HB 2344 both contain the language that these funds "shall be under the direction and control of the governing body of the city," HB 2344 effectively negates this language as it applies to the alcohol and drug programs fund.

Our objections to this bill are twofold. First, although the state currently specifies how much money must be deposited into the alcohol and drug programs fund, the further distribution of these funds to grant applications is left up to the discretion of the locally elected officials. These local officials must evaluate the needs of their particular community and distribute the funds to address these needs. HB 2344 narrows the possible recipients of alcohol and drug programs money to such an extent as to remove all discretion from local governing bodies. In fact, it is even possible that a city that does not currently have a nonprofit agency operating one of these facilities would have no means to distribute the money at all.

Second, this bill would prohibit prevention and treatment programs which are part of other entities from receiving these funds. In other words, local D.A.R.E. programs, students against drunk driving campaigns, and other educational campaigns would not be eligible for this funding. All prevention programs administered by local law enforcement agencies or other entities who do not maintain a treatment facility would be prohibited from receiving funds under the provisions of this bill.

Under current law, agencies or programs whose principal purpose is alcoholism and drug abuse prevention or treatment submit grant applications to their local governing body to request money from these funds. Local officials have formed committees to study the needs of their communities and make recommendations on the disbursement of these funds. Local governing bodies are able under current law to allocate funds to the treatment facilities described in HB 2344. They are also able to distribute funds to other programs that they feel address the needs of the citizens in their communities.

We are asking that the current method for distribution of these funds remain intact and that you do not favorably report HB 2344.

F & SA
3-6-96

Atch #2

**TESTIMONY TO THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE
REGARDING
SB 663**

**By: Myron E. Scafe, Executive Director
Kansas Racing Commission**

March 6, 1996

BILL TITLE

An act concerning racing with parimutuel wagering; amending K.S.A. 1995 Supp. 74-8802, 74-8805, and 74-8813 repealing the existing sections.

BILL BACKGROUND

Senate Bill 663 was introduced by the Legislative Post Audit Committee at the request of the Kansas Racing Commission in response to concerns raised by the recent audits of various entities within the parimutuel racing industry. The commission believes that the amendments proposed in Senate Bill 663 will enable it to better carry out its regulatory functions. All of the proposals in Senate Bill 663 have been the subject of public discussion at one or more Kansas racing commission meetings. No opposition to the proposals contained in Senate Bill 663 has been evident. The bill was referred to the Senate Federal and State Affairs Committee. there was no testimony in opposition to the bill presented to the Senate Committee.

BILL SUMMARY

Defines "contract". Reduces the experience requirement for the position of Director of Racing Operations. Clarifies the requirement that an organization licensee conducting racing at a dual race track facility must conduct live horse racing on 20% of its total racing dates in any given year.

FISCAL IMPACT

Filling the Director of Racing Operations position will cost approximately \$50K - \$55K including salary and benefits. Additional days of racing will marginally increase race track expenses some of which will be offset by additional profits generated by wagering on the additional days of racing. It may have the effect of reducing overall daily purse levels for the Woodlands horse meet leading to a reduction in the number of horses being attracted to compete. Quantifying these effects prospectively is very difficult.

FUSA
3-6-96
Atch #3

BILL DETAILS WITH POLICY IMPLICATIONS/BACKGROUND

On Page 1 at Lines 30 - 33, the amendment to K.S.A. 74-8802(d) is needed to define what is meant by "contract". Over the years there has been on going disagreement between the commission and its licensees as to what is and what is not a contract. Putting a definition in the racing act should put an end to such disputes.

On Page 5, at line 10, the amendment to K.S.A. 74-8805(a)(2)(C) corrects an oversight when the 1995 legislature amended K.S.A. 74-8805(a)(1) to provide for gubernatorial appointment of the executive director of the Kansas racing commission but failed to provide for the governor to set the executive director's salary.

On Page 6, at Line 37, the amendment to K.S.A. 74-8805(d) (2)(F) is needed to make it possible to attract candidates for the position of Director of Racing Operations within fiscal constraints. Budget allocation in prior years have not been sufficient to attract candidates with the requisite number of years experience. Reducing the statutory experience requirement from ten to five years should alleviate this problem.

On Page 15, at Line 18, the amendment to K.S.A. 74-8813(t) is needed to clarify the requirement that on 20% of a dual racing facility's total race days such facility must conduct live horse races. This amendment is necessitated by the definition of the word "conducted" as including simulcast as well as live races adopted by the Kansas courts in Orion Stables, et al, v. Kansas Racing Commission, Kansas Supreme Court Case No. 71,542, (Unpublished 1995).

On Page 15, at Line 20, the amendment is needed in the event for some unknown reason there is a failure to run the required number of live horse race dates could be excused by the commission if a licensee demonstrates reasonable justification for failing to do so. Examples of reasonable justification might include inability to attract sufficient numbers of horses for competitive races or a jockey strike.

IMPACT ON OTHER STATE AGENCIES

None.

**TESTIMONY TO THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE
REGARDING
SB 708**

**By: Myron E. Scafe, Executive Director
Kansas Racing Commission**

March 6, 1996

BILL TITLE

An act concerning racing with parimutuel wagering; amending K.S.A. 74-8815 and K.S.A. 1995 Supp. 74-8802, 74-8810, 74-8813, 74-8818 and 74-8836 and repealing the existing sections.

BILL BACKGROUND

Senate Bill 708 was introduced by the Senate Federal and State Affairs Committee at the request of the Kansas Racing Commission. The amendments to the Kansas parimutuel act sought by way of this bill combine a number of proposals brought forward by the parimutuel industry as well as proposals from the commission itself. The commission believes adoption of the proposals contained in Senate Bill 708 will permit it to better carry out its regulatory functions. All of the proposals in Senate Bill 708 have been the subject of public discussion at several Kansas racing commission meetings. No opposition to the proposals contained in Senate Bill 708 has been evident. There was no testimony in opposition to the bill presented to the Senate Federal and State Affairs Committee.

BILL SUMMARY

Defines "crossover employment" and permits the commission to adopt rules and regulations regulating concurrent employment of an occupational licensee by more than one commission entity licensee. Corrects the omission of sons-in-law and daughters-in-law from the list of persons prohibited from holding licenses issued by the commission or having business dealings with the owner or lessee of a racetrack facility in Kansas. Clarifies the requirement that an organization licensee conducting racing at a dual race track facility must conduct live horse racing on 20% of its total racing dates in any given year. Clarifies the number of racing stewards or judges to be appointed, clarifies the chain of command, and provides for greater flexibility in scheduling to avoid over-time. Permits qualified employees of the commission to fill in temporarily as stewards or racing judges. Revises the requirements relating to the ratio of live races to simulcast races to avoid violations of the act resulting from causes beyond the control of a licensee. Provides for a ten week window for fair association race meetings.

F. SA
3-6-96
Atch # 4

FISCAL IMPACT

Reduces over-time costs for racing stewards and judges and reduces travel costs for alternate judges or stewards.

BILL DETAILS WITH POLICY IMPLICATIONS/BACKGROUND

On Page 1, at Lines 28 - 31, the amendment to K.S.A. 74-8802(d) is needed to define what is meant by "crossover employment". An example of crossover employment would be an individual employed half time by an organization licensee as a mutual teller and half time by a facility owner or manager licensee as a valet parking attendant,

On Page 5, Line 29, the amendment to K.S.A. 74-8810(c) is needed to correct the omission of sons-in-law and daughters-in-law being prohibited from holding commission-issued licenses. This omission appears to have been an oversight in the original parimutuel legislation.

On Page 16, at Line 13, the amendment to K.S.A. 74-8813(t) is needed to clarify the requirement that on 20% of a dual racing facility's total race days such facility must conduct live horse races. This amendment is necessitated by the definition of the word "conducted" as including simulcast as well as live races adopted by the Kansas courts in Orion Stables, et al. v. Kansas Racing Commission, Kansas Supreme Court Case No. 71,542, (Unpublished 1995).

On Page 16, Line 15, if there is a failure to run the required number of live horse race dates could be excused by the commission if a licensee demonstrates reasonable justification for failing to do so. Examples of reasonable justification might include inability to attract sufficient numbers of horses for competitive races or a jockey strike.

On Page 16, at Lines 35 - 37, the amendment to K.S.A. 74-8813(w) specifically authorizes the commission to adopt rules and regulations regulating crossover employment.

On Page 21, at Lines 4 - 6, the amendment to K.S.A. 74-8815(o) specifically authorizes the commission to adopt rules and regulations regulating crossover employment.

On Page 21, at Lines 8 - 11, the amendment to K.S.A. 74-8818(a) would clarify the commission's authority to appoint three or more full or part-time stewards or racing judges at each racing facility to provide scheduling flexibility; to ensure that alternate stewards and racing judges receive sufficient hours for cross-training; and to avoid excessive overtime problems. Line 14 places the stewards and racing judges under the supervision of the executive director in order to clarify the day to day supervisory chain of command. This is already the commission's policy and practice.

On page 21, at Lines 34 - 35, the amendment to K.S.A. 74-8818(b) would give discretion to use qualified but unlicensed commission employees as alternate officials, on a temporary basis other than as an emergency appointment.

On Page 23, at Lines 8 - 24, the amendment to K.S.A. 74-8836(b)(1) would permit a "full card" of simulcasting when less than the minimum of ten scheduled live horse races or 13 scheduled live greyhound races per day cannot be conducted due to circumstances outside of an organization licensee's control.

On Page 23, at Line 32, the amendment to K.S.A. 74-8836(b)(2) would provide the commission with greater flexibility in setting the starting and ending dates of fair association race meets. This would permit the commission to allow Eureka downs to conduct live horse racing on both Kentucky Derby day, the first Saturday in May, and July 4.

IMPACT ON OTHER STATE AGENCIES

None.

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KANSAS RACING COMMISSION
Requested Amendments to
SENATE BILL 708
As Amended by Senate Committee of the Whole
Presented to the
HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
March 6, 1996

1 The Kansas racing commission respectfully requests the following amendments to Senate
2 Bill 708 - As Amended by the Senate Committee of the Whole, to wit:

3
4 Commencing on page 4 at line 40 insert an amended section 2 as follows:

5
6 Sec. 2. K.S.A. 1995 Supp. 74-8804 is hereby amended to read as
7 follows: 74-8804. (a) During race meetings, the commission and its
8 designated employees may observe and inspect all racetrack facilities
9 operated by licensees and all racetracks simulcasting races to racetrack
10 facilities in Kansas, including but not limited to all machines, equipment and
11 facilities used for parimutuel wagering.

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

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

22 (d) The commission may issue subpoenas to compel access to or for the
23 production of any books, papers, records or memoranda in the custody or
24 control of any licensee or officer, member, employee or agent of any licensee,
25 or to compel the appearance of any licensee or officer, member, employee or
26 agent of any licensee, or of any racetrack or business involved in
27 simulcasting races to racetrack facilities in this state, for the purpose of
28 ascertaining compliance with any of the provisions of this act or any rule and
29 regulation adopted hereunder. Subpoenas issued pursuant to this subsection
30 may be served upon individuals and corporations in the same manner
31 provided in K.S.A. 60-304 and amendments thereto for the service of process
32 by any officer authorized to serve subpoenas in civil actions or by the
33 commission or an agent or representative designated by the commission. In
34 the case of the refusal of any person to comply with any such subpoena, the

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

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

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

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

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

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

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

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

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

30 (j) The commission, within 72 hours after any action taken by a steward or
31 racing judge and upon appeal by any interested party or upon its own
32 initiative, may overrule any decision of a steward or racing judge, other than
33 a decision regarding disqualifications for interference during the running of
34 a race, if the preponderance of 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 or racing
39 judge shall not change the distribution of parimutuel pools to the holders of
40 winning tickets. A decision of the commission which would affect the
41 distribution of purses in any race shall not result in a change in that
42 distribution unless a written claim is submitted to the commission within 48
43 hours after completion of the contested race by one of the owners or trainers

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

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

9 (1) The commission shall adopt rules and regulations specifying and
10 regulating:

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

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

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

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

28 (o) The commission may receive from commission security personnel, the
29 Kansas bureau of investigation or other criminal justice agencies, including
30 but not limited to the federal bureau of investigation and the federal internal
31 revenue service. such criminal history record information (including arrest
32 and nonconviction data), criminal intelligence information and information
33 relating to criminal and background investigations as necessary for the
34 purpose of determining qualifications of licensees of the commission,
35 employees of the commission, applicants for employment by the
36 commission, and applicants for licensure by the commission, including
37 applicants for simulcasting licenses. Upon the written request of the chair-
38 person of the commission, the commission may receive from the district
39 courts such information relating to juvenile proceedings as necessary for the
40 purpose of determining qualifications of employees of and applicants for
41 employment by the commission and determining qualifications of licensees
42 of and applicants for licensure by the commission. Such information, other
43 than conviction data, shall be confidential and shall not be disclosed except

1 to members and employees of the commission as necessary to determine
2 qualifications of such licensees, employees and applicants. Any other
3 disclosure of such confidential information is a class A misdemeanor and
4 shall constitute grounds for removal from office, termination of employment
5 or denial, revocation or suspension of any license issued under this act.

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

11 (q) The commission shall adopt such rules and regulations as necessary to
12 implement and enforce the provisions of this act.
13

14 Renumbering sections 2, 3, and 4 as sections 3, 4 and 5 respectively then on page 21
15 commencing at line 7 inserting an amended section 6 as follows:
16

17 Sec. 6. K.S.A. 74-8817 is hereby amended to read as follows: 74-
18 8817. (a) No organization licensee or facility manager licensee shall permit
19 any business not owned and operated by the organization licensee to sell
20 goods or services within a racetrack facility where the organization licensee
21 conducts race meetings unless such business has been issued a con
22 cessionaire license by the commission.

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

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

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

15 (1) Has been convicted of a felony in a court of any state or of the United
16 States or has been adjudicated in the last five years in any such court of
17 committing as a juvenile an act which, if committed by an adult, would
18 constitute a felony;

19 (2) has been convicted of a violation of any law of any state or of the United
20 States involving gambling or controlled substances or has been adjudicated
21 in the last five years in any such court of committing as a juvenile an act
22 which, if committed by an adult, would constitute such a violation;

23 (3) fails to disclose any material fact or provides information, knowing such
24 information to be false, in connection with the application for the license; or
25 (4) has been found by the commission to have violated any provision of this
26 act or any rule and regulation of the commission.

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

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

40
41 Thereafter renumbering the existing sections 5 through 8 as sections 7 through 10
42 respectively.