

Approved: _____ 3-13-96
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:10 a.m. on February 8, 1996 in Room 2-54-E of the Capitol.

Members present were: Senator Oleen, Chair
Senator Tillotson, Vice Chair
Senator Jones, Ranking Minority Member
Senator Gooch
Senator Hensley
Senator Jordan
Senator Papay
Senator Praeger
Senator Ramirez
Senator Vidricksen
Senator Walker

Committee staff present: Mary Galligan, Legislative Research
Mary Torrence, Revisor
Nancy Wolff, Committee Secretary

Conferees appealing before the Committee:
Wayne Ward, a greyhound kennel owner
Terry Hamlin, attorney to the Racing Commission
Myron Scafe, Executive Director of the Racing Commission

Others attending meeting: See attached list

Senator Oleen stated that the committee had been requested to introduce legislation relative to bingo which effort to increase the numbers would increase the amount of money returned to those playing the came in an playing. Senator Jones made a motion that such legislation be introduced and Senator Gooch seconded the motion. The motion carried.

Senator Oleen introduced Wayne Ward, a greyhound kennel owner, to solicit his input on feeding practices of e feed given to greyhounds and how foreign substances appear in the urine of animals. Mr. Ward stated that the dogs may contain substances that will cause an abnormal response when tested for foreign substances.

Senator Oleen then moved on to Terry Hamblin, attorney for the Racing Commission, who reviewed the Commission's response to the Linton Report. The Linton Report was contracted by the Racing Commission in 1994 as a means to critique the operations of the commission.

The question was asked as to what Mr. Linton's credentials were that would have qualified him to prepare such a report, to which Mr. Hamblin stated that Mr. Linton had approximately twenty years experience in the racing industry and was previously employed as the executive director of the Arizona Racing Commission. He is currently associated with the University of Arizona.

Myron Scafe, Executive Director of the racing commission, then requested that two pieces of legislation be introduced through the committee which would 1) Correct 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. It would also clarify the number of racing stewards or judges to be appointed, clarify the chain of command, and provide for greater flexibility in scheduling to avoid overtime. It would permit qualified employees of the commission to fill in temporarily as steards or racing judges, revise the requirements relating to the ratio of live races to simulcast races and provide for a ten week window for fair association race meetings; and 2) Defines "crossover employment" and permits the

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

commission to adopt rules and regulations and regulations regulating concurrent employment of an occupational licensee by more than one commission entity licensee. It would clarify the requirement that an organization licensee conducting racing at a dual race track facility and must conduct live horse racing on 20% of its total racing dates in any given year (Attachment 1). Senator Hensley made a motion that such legislation be drafted as a committee bill and introduced and Senator Gooch seconded the motion. The motion carried.

Senator Oleen then stated that the agenda for next week would be revised to include a meeting on Monday to allow the committee to discuss and work on SB474, the Whistleblower Act.

There being no other business, the meeting was adjourned at 12 p.m.

AGENCY OR DEPARTMENT NAME -- PROPOSAL NUMBER

Kansas Racing Commission - Proposal No. 1B

BILL TITLE

An act concerning racing with parimutuel wagering; amending K.S.A. 1995 Supp. 74-8810, K.S.A. 1995 Supp. 74-8818 and K.S.A. 1995 Supp. 74-8836.

BILL SUMMARY

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 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. See, draft bill attached.

FISCAL IMPACT

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

POLICY IMPLICATIONS/BACKGROUND

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.

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. The amendment to K.S.A. 74-8818(b) would give discretion to use commission employees as alternate officials, other than as an emergency appointment.

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. 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.

IMPACT ON OTHER STATE AGENCIES

None.

*Attachment 1
Federal & State Affairs
2/8/96 1-1*

1 An act concerning racing with parimutuel wagering; amending K.S.A. 1995 Supp. 74-8810; K.S.A.
2 1995 Supp. 74-8818; and K.S.A. 1995 Supp. 74-8836.

3
4 Be it enacted by the Legislature of the State of Kansas:

5
6 Section 1. On and after July 1, 1996, K.S.A. 1995 Supp. 74-8810 is hereby amended to read as
7 follows: 74-8810 (a) It is a class A nonperson misdemeanor for any person to have a financial
8 interest, directly or indirectly, in any racetrack facility within the state of Kansas or in any host
9 facility for a simulcast race displayed in this state:

10
11 (1) While such person is a member of the commission or during the five years immediately
12 following such person's term as a member of the commission; or

13
14 (2) while such person is an officer, director or member of an organization licensee, other than
15 a fair association or horsemen's nonprofit organization, or during the five years immediately
16 following the time such person is an officer, director or member of such an organization licensee.

17
18 (b) It is a class A nonperson misdemeanor for any member, employee or appointee of the
19 commission, including stewards and racing judges, to knowingly:

20
21 (1) Participate in the operation of or have a financial interest in any business which has been
22 issued a concessionaire license, racing or wagering equipment or services license, facility owner
23 license or facility manager license, or any business which sells goods or services to an organization
24 licensee;

25
26 (2) Participate directly or indirectly as an owner, owner-trainer or trainer of a horse or
27 greyhound, or as jockey of a horse, entered in a race meeting conducted in this state;

28
29 (3) place a wager on an entry in a horse or greyhound race conducted by an organization
30 licensee; or

31
32 (4) accept any compensation, gift, loan, entertainment, favor or service from any licensee,
33 except such suitable facilities and services within a racetrack facility operated by an organization
34 licensee as may be required to facilitate the performance of the member's, employee's or appointee's
35 official duties.

36
37 (c) It is a class A misdemeanor for any member, employee or appointee of the commission,
38 or any spouse, parent, grandparent, brother, sister, child, son-in-law, daughter-in-law, grandchild,
39 uncle, aunt, parent-in-law, brother-in-law or sister-in-law thereof, to:

40
41 (1) Hold any license issued by the commission, except that a steward or racing judge shall
42 hold an occupation license to be such a steward or judge; or
43

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

3
4 (d) It is a class A nonperson misdemeanor for any officer, director or member of an
5 organization licensee, other than a fair association or horsemen's nonprofit organization, to:

6
7 (1) Receive, for duties performed as an officer or director of such licensee, any compensation
8 or reimbursement or payment of expenses in excess of the amounts provided by K.S.A. 75-3223 and
9 amendments thereto for board members' compensation, mileage and expenses; or

10
11 (2) enter into any business dealing, venture or contract with the organization licensee or
12 other than in the capacity of an officer or director of the organization licensee, with a facility owner
13 licensee, facility manager licensee, racing or wagering equipment or services license or
14 concessionaire licensee, or with any host facility for a simulcast race displayed in this state.

15
16 (e) It is a class A nonperson misdemeanor for any facility owner licensee or facility manager
17 licensee, other than a horsemen's association, or any officer, director, employee, stockholder or
18 shareholder thereof or any person having an ownership interest therein, to participate directly or
19 indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse.
20 entered in a live race conducted in this state.

21
22 (f) It is a class A nonperson misdemeanor for any licensee of the commission, or any person
23 who is an officer, director, member or employee of a licensee, to place a wager at a racetrack facility
24 located in Kansas on an entry in a horse or greyhound race if:

25
26 (1) The commission has by rules and regulations designated such person's position as a
27 position which could influence the outcome of such race or the parimutuel wagering thereon; and

28
29 (2) such race is conducted at or simulcast to the racetrack facility where the licensee is
30 authorized to engage in licensed activities.

31
32 (g) It is a class B nonperson misdemeanor for any person to use any animal or fowl in the
33 training or racing of racing greyhounds.

34
35 (h) It is a class A nonperson misdemeanor for any person to:

36
37 (1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person
38 to be under 18 years of age, upon conviction of the first offense;

39
40 (2) accept, transmit or deliver, from a person outside a racetrack facility, anything of value
41 to be wagered in any parimutuel system of wagering within a racetrack facility, upon conviction of
42 the first offense;

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

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

8
9 (5) possess or conspire to possess, within the confines of a racetrack facility, equipment for
10 administering drugs or medications to horses or greyhounds in violation of rules and regulations of
11 the commission, upon conviction of the first offense;

12
13 (6) enter any horse or greyhound in any race knowing such horse or greyhound to be
14 ineligible to compete in such race pursuant to K.S.A. 74-8812 and amendments thereto; or

15
16 (7) prepare or cause to be prepared an application for registration of a horse pursuant to
17 K.S.A. 74-8830 and amendments thereto knowing that such application contains false information.

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

19
20 (1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person
21 to be under 18 years of age, upon conviction of the second or a subsequent offense;

22
23 (2) accept, transmit or deliver, from any person outside a racetrack facility, anything of value
24 to be wagered in any parimutuel system of wagering within a racetrack facility, upon the second or
25 a subsequent conviction;

26
27 (3) conduct or assist in the conduct of a horse or greyhound race, or the display of a simulcast
28 race, where the parimutuel system of wagering is used or is intended to be used and where no license
29 has been issued to an organization to conduct or simulcast such race;

30
31 (4) enter any horse or greyhound in any race conducted by an organization licensee knowing
32 that the class or grade in which such horse or greyhound is entered is not the true class or grade or
33 knowing that the name under which such horse or greyhound is entered is not the name under which
34 such horse or greyhound has been registered and has publicly performed;

35
36 (5) use or conspire to use any device, other than an ordinary whip for horses or a mechanical
37 lure for greyhounds, for the purpose of affecting the speed of any horse or greyhound at any time
38 during a race conducted by an organization licensee;

39
40 (6) possess or conspire to possess, within the confines of a racetrack facility, any device,
41 other than an ordinary whip for horses or a mechanical lure for greyhounds, designed or intended
42 to affect the speed of a horse or greyhound;

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

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

8
9 (9) possess or conspire to possess, within the confines of a racetrack facility, equipment for
10 administering drugs or medications to horses or greyhounds in violation of rules and regulations of
11 the commission, upon conviction of the second or a subsequent offense;

12
13 (10) sponge the nostrils or windpipe of a horse for the purpose of stimulating or depressing
14 such horse or affecting its speed at any time during a race meeting conducted by an organization
15 licensee;

16
17 (11) alter or attempt to alter the natural outcome of any race conducted by, or any simulcast
18 race displayed by, an organization licensee or transmit or receive an altered race or delayed broadcast
19 race if parimutuel wagering is conducted or solicited after off time of the race;

20
21 (12) influence or attempt to influence, by the payment or promise of payment of money or
22 other valuable consideration, any person to alter the natural outcome of any race conducted by, or
23 any simulcast race displayed by, an organization licensee;

24
25 (13) influence or attempt to influence or attempt to influence any member, employee or
26 appointee of the commission, by the payment or promise of payment of money other valuable
27 consideration, in the performance of any official duty of that member, employee or appointee;

28
29 (14) fail to report to the commission or to one of its employees or appointees knowledge of
30 any violation of this act by another person for the purpose of stimulating or depressing any horse or
31 greyhound, or affecting its speed, at any time during any race conducted by an organization licensee;

32
33 (15) commit any of the following acts with respect to the prior racing record, pedigree,
34 identity or ownership of a registered horse or greyhound in any matter related to the breeding,
35 buying, selling or racing of the animal:

36
37 (A) Falsify, conceal or cover up, by any trick, scheme or device, a material fact;

38
39 (B) make any false, fictitious or fraudulent statement or representation; or

40
41 (C) make or use any false writing or document knowing that it contains any false, fictitious
42 or fraudulent statement or entry; or
43

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

3
4 (j) No person less than 18 years of age shall purchase a parimutuel ticket or an interest in
5 such a ticket. Any person violating this subsection shall be subject to adjudication as a juvenile
6 offender pursuant to the Kansas juvenile offenders code.

7
8 Sec. 2. On and after July 1, 1996, K.S.A. 1995 Supp. 74-8818 is hereby amended to read as
9 follows: 74-8818(a) The commission shall appoint at least three individuals to serve as full-time
10 stewards or racing judges at each horse or greyhound race meeting; provided that no more than
11 three such judges or stewards shall be on duty at any one time at any racing performance. One shall
12 be designated as the chief steward or chief racing judge and the other two as associate stewards or
13 associate racing judges. Such stewards and racing judges shall be employees of the commission who
14 shall serve at the pleasure of the commission under the supervision of the executive director and
15 shall be in the unclassified service under the Kansas civil service act. The commission also may
16 contract with individuals to serve as stewards or racing judges as needed in the absence of a full-time
17 steward or racing judge. The compensation of the stewards and racing judges shall be an amount
18 fixed by the commission and shall be paid by the commission. The commission may require an
19 organization licensee to reimburse the commission for compensation paid to the stewards and racing
20 judges for their services performed at race meetings conducted by that organization licensee. Any
21 moneys received by the commission for that purpose shall be remitted promptly by the commission
22 to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the
23 racing reimbursable expense fund created by K.S.A. 74-8827 and amendments thereto. All other
24 racing officials at a race meeting shall be approved by the commission and compensated by the
25 organization licensee. The stewards, racing judges and other racing officials shall enforce the civil
26 provisions of this act and any rules and regulations of the commission and shall submit written
27 reports of the activities and conduct of the race meetings to the commission.

28
29 (b) Except in the case of an otherwise qualified employee of the commission serving as a
30 racing judge or steward on a temporary basis. E each steward or racing judge shall be required to
31 obtain an occupation license from the commission pursuant to K.S.A. 74-8816 and amendments
32 thereto prior to performing any duties as a steward or a judge.

33
34 (c) The commission shall require each applicant for a license as a steward or racing judge to
35 pass an examination on matters relating to the duties of stewards or racing judges unless the
36 applicant submits proof satisfactory to the commission that the applicant has passed an examination
37 in another jurisdiction which the commission finds equivalent to the examination given by the
38 commission. Examinations shall be held at such times and places as determined by the commission.
39 Notice of the times and places of the examinations shall be given as determined by the commission.
40 The commission shall prepare both written and oral examinations to be taken by person applying for
41 licensure as stewards or racing judges, requesting and taking into consideration suggestions from
42 representatives of horsemen and horsewomen, greyhound owners, organization licensees, stewards,
43 racing judges and other interested and knowledgeable parties as to the content thereof.

1 (d) The commission may examine any person who:
2

3 (1) Has not been convicted of a crime involving moral turpitude or of a felony;
4

5 (2) has completed an accredited senior high school or its equivalent;
6

7 (3) has been given a physical examination by a licensed physician within 60 days prior to the
8 date of application for the steward's or racing judge's examination, indicating at least 20/20 vision
9 or vision corrected to at least 20/20, and normal hearing ability;

10 (4) has:
11

12 (A) At least five years' experience in the horse or greyhound racing industry as a licensed
13 trainer or jockey;
14

15 (B) at least 10 years' experience in the horse or greyhound racing industry as a licensed
16 owner whose experience, knowledge, ability and integrity relative to the industry are known to the
17 commission;
18

19 (C) at least three years' experience as a licensed racing official, racing secretary, assistant
20 racing secretary or director of racing; or
21

22 (D) experience in the racing industry of a character and for a length of time sufficient, in the
23 opinion of the commission, to be substantially equivalent to the experience requirement of
24 subsection (d)(4)(A), (B) or (C).
25

26 (e) For the purpose of subsection (d)(4), one year's experience shall mean at least 100 days
27 actually worked within one calendar year. An original license for a steward or racing judge issued
28 pursuant to the provisions of this act shall be issued for the calendar year in which it is issued and
29 shall be renewable for a period not to exceed three years as established by rules and regulations of
30 the commission. The commission shall establish a license fee schedule consistent with the different
31 period for which such licenses may be granted. The license shall be valid at all race meetings in this
32 state during the period for which it is issued, unless it is suspended or revoked prior to the expiration
33 of such period.
34

35 Sec. 3. On and after July 1, 1995, K.S.A. 74-8836 is hereby amended to read as follows: 74-8836

36 (a) Any organization licensee that conducts at least 150 days of live racing during a calendar year
37 or a fair association that conducts fewer than 22 days of live racing during a calendar year may apply
38 to the commission for a simulcasting license to display simulcast horse or greyhound races and to
39 conduct intertrack parimutuel wagering thereon. If the organization licensee conducts races at
40 a racetrack facility that is owned by a facility owner licensee, both licensees shall join in the
41 application. A simulcasting license granted to a fair association that conducts fewer than 22 days of
42 live racing shall restrict the fair association's display of simulcast races to a number of days,
43

1 including days on which it conducts live races, equal to not more than twice the number of days on
2 which it conducts live races.

3
4 (b)(1) A simulcasting license granted to an organization licensee other than a fair association
5 shall authorize the display of simulcast races at the racetrack facility where the live races are
6 conducted so long as the licensee conducts at least 8 live races per day and an average of 10 live
7 races per day per week. If a simulcasting licensee conducts live horse races on a day when simulcast
8 races are displayed by the licensee and the licensee conducts fewer than an average of 10 live horse
9 races ~~on such day~~ per day per week not less than 80% of the races on which wagers are taken by the
10 licensee during such ~~day~~ week shall be live races conducted by the licensee unless approved by the
11 recognized horsemen's group or upon a finding by the commission that the organization licensee
12 was unable to do so for reasonable cause. If a simulcast licensee conducts live greyhound races on
13 a day when simulcast races are displayed by the licensee and the licensee ~~conducts~~ schedules fewer
14 than 13 live greyhound races during a performance on such day, not less than 80% of the races on
15 which wagers are taken by the licensee during such performance shall be live races conducted by the
16 licensee.

17
18 (2) A simulcasting license granted to a fair association shall authorize the display of
19 simulcast races at the racetrack facility where the races are conducted only if live races are scheduled
20 for two or more days of the same calendar week, except that the licensee may conduct simulcast
21 races in the week immediately before and immediately after a live meeting if the total number of
22 days on which simulcast races are displayed does not exceed the total authorized in subsection (a).
23 In no case shall the live meet or simulcast races allowed under this subsection exceed ~~nine~~ ten
24 consecutive weeks. For purposes of this subsection, a calendar week shall be measured from Monday
25 through the following Sunday.

26
27 (3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2), a fair association may
28 apply to the commission for not more than five additional days of simulcasting of special events. In
29 addition, the commission may authorize a fair association to display additional simulcast races but
30 if such fair association is less than 100 miles from an organization licensee that is not a fair
31 association, it must also secure written consent from that organization licensee.

32
33 (4) Notwithstanding the provision of subsection (b)(1), if an emergency causes the
34 cancellation of all or any live races scheduled for a day or performance by a simulcasting licensee,
35 the commission or the commission's designee may authorize the licensee to display any simulcast
36 races previously scheduled for such a day or performance.

37
38 (5) Notwithstanding the provisions of subsection (b)(1), the commission may authorize the
39 licensee to display simulcast special racing events as designated by the commission.

40
41 (c) The application for a simulcasting license shall be filed with the commission at a time and
42 place prescribed by rules and regulations of the commission. The application shall be in a form and
43 include such information as the commission prescribes.

1 (d) To qualify for a simulcasting license the applicant shall:
2

3 (1) Comply with the interstate horse racing act of 1978 (15 U.S.C. 3001 et seq.) as in effect
4 December 31, 1991;

5
6 (2) submit with the application a written approval of the proposed simulcasting schedule
7 signed by:

8
9 (A) The recognized horsemen's group for the track, if the applicant is licensed to conduct
10 only horse races;

11
12 (B) the recognized greyhound owners' group, if the applicant is licensed to conduct only
13 greyhound races and only greyhound races are to be simulcast;

14
15 (C) both the recognized greyhound owners' group and a recognized horsemen's group, if the
16 applicant is licensed to conduct only greyhound races and horse races are to be simulcast;

17
18 (D) the recognized greyhound owners' group, if the applicant is licensed to conduct both
19 greyhound and horse races, only greyhound races are to be simulcast and races are to be simulcast
20 only while the applicant is conducting live greyhound races;

21
22 (E) the recognized horsemen's group for the track, if the applicant is licensed to conduct both
23 greyhound and horse races, only horse races are to be simulcast and races are to be simulcast only
24 while the applicant is conducting live horse races; or

25
26 (F) both the recognized greyhound owners' group and the recognized horsemen's group for
27 the track, if the applicant is licensed to conduct both greyhound races and horse races and horse races
28 are to be simulcast while the applicant is conducting live greyhound races or greyhound races are
29 to be simulcast while the applicant is conducting live horse races; and

30
31 (3) submit, in accordance with rules and regulations of the commission and before the
32 simulcasting of a race, a written copy of each contract or agreement which the applicant proposes
33 to enter into with regard to such race, and any proposed modification of any such contract or
34 agreement.

35
36 (e) The term of a simulcasting license shall be one year.

37
38 (f) A simulcasting licensee may apply to the commission or its designee for changes in the
39 licensee's approved simulcasting schedule if such changes are approved by the respective recognized
40 greyhound owners' group or recognized horsemen's group needed throughout the term of the license.
41 Application shall be made upon forms furnished by the commission and shall contain such
42 information as the commission prescribes.
43

1 (g) Except as provided by subsection (j), the takeout for simulcast horse and greyhound races
2 shall be the same as it is for the live horse and greyhound races conducted during the current or next
3 live race meeting at the racetrack facility where the simulcast races are displayed. For simulcast races
4 the tax imposed on amounts wagered shall be as provided by K.S.A. 74-8823 and amendments
5 thereto. The simulcasting licensee shall be entitled to retain sufficient revenue to pay expenses
6 directly related to the simulcast race or performance. The commission, by rules and regulations, shall
7 define what constitutes such expenses. Of the balance of the takeout remaining after deduction of
8 taxes and expenses, 50% shall be paid to the simulcasting licensee. The remainder shall be used for
9 purses, as follows:

10
11 (1) For purses for greyhound races conducted by the licensee, if the simulcast race is a
12 greyhound race and the licensee conducts only live greyhound races;

13
14 (2) for purses for horse races conducted by the licensee, if the simulcast race is a horse race
15 and the licensee conducts only live horse races;

16
17 (3) for purses, as determined by both the recognized horsemen's group and the recognized
18 greyhound owners' group, if the simulcast race is a greyhound race and the licensee does not conduct
19 or is not currently conducting live greyhound races; or

20
21 (4) for purses, as determined by both the recognized horsemen's group and the recognized
22 greyhound owners' group, if the simulcast is a horse race and the licensee does not conduct or is not
23 currently conducting live horse races.

24
25 (h) Except as provided by subsection (j):

26
27 (1) If a simulcasting licensee has a license to conduct live horse races and the licensee
28 displays a simulcast horse race:

29
30 (A) All breakage proceeds shall be remitted by the licensee to the commission not later than
31 the 15th day of the month following the race from which the breakage is derived and the commission
32 shall promptly remit any such proceeds received to the state treasurer, who shall deposit the entire
33 amount in the state treasury and credit it to the Kansas horse breeding development fund created by
34 K.S.A. 74-8829 and amendments thereto; and

35
36 (B) all unclaimed ticket proceeds shall be remitted by the licensee to the commission on the
37 61st day after the end of the calendar year and the commission shall promptly remit any such
38 proceeds received to the state treasurer, who shall deposit the entire amount in the state treasury and
39 credit it to the Kansas horse breeding development fund created by K.S.A. 74-8829 and amendments
40 thereto.

41
42 (2) If a simulcasting licensee has a license to conduct live greyhound races and the licensee
43 displays a simulcast greyhound race, breakage and unclaimed winning ticket proceeds shall be

1 distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for
2 breakage and unclaimed winning ticket proceeds from live greyhound races.
3

4 (3) If a simulcasting licensee has a license to conduct live racing of only horses and the
5 licensee displays a simulcast greyhound race, unclaimed winning ticket proceeds shall be distributed
6 in the manner provided by K.S.A. 74-8822, and amendments thereto, for unclaimed winning ticket
7 proceeds from live greyhound races. Breakage for such races shall be distributed for use to benefit
8 greyhound racing as determined by the commission.
9

10 (4) If a simulcasting licensee has a license to conduct live racing of only greyhounds and the
11 licensee displays a simulcast horse race:

12 (A) All breakage proceeds shall be remitted by the licensee to the commission not later than
13 the 15th day of the month following the race from which the breakage is derived and the commission
14 shall promptly remit any such proceeds received to the state treasurer, who shall deposit the entire
15 amount in the state treasury and credit it to the Kansas horse breeding development fund created by
16 K.S.A. 74-8829 and amendments thereto: and
17

18 (B) all unclaimed ticket proceeds shall be remitted by the licensee to the commission on the
19 61st day after the end of the calendar year and the commission shall promptly remit any such
20 proceeds received to the state treasurer, who shall deposit the entire amount in the state treasury and
21 credit it to the Kansas horse breeding development fund created by K.S.A. 74-8829 and amendments
22 thereto.
23

24 (i) The commission may approve a request by two or more simulcasting licensees to combine
25 wagering pools within the state of Kansas pursuant to rules and regulations adopted by the
26 commission.
27

28 (j)(1) The commission may authorize any simulcasting licensee to participate in an interstate
29 combined wagering pool with one or more other racing jurisdictions.
30

31 (2) If a licensee participates in an interstate pool, the licensee may adopt the takeout of the
32 host jurisdiction or facility, except that the takeout shall not be more than 20% on win, place and
33 show bets and not more than 25% on all other bets. The amount and manner of paying purses from
34 the takeout in an interstate pool shall be as provided by subsection (g).
35

36 (3) The tax imposed on amounts wagered in an interstate pool shall be as provided by K.S.A.
37 74-8823 and amendments thereto. Parimutuel taxes may not be imposed on any amounts wagered
38 within this jurisdiction.
39

40 (4) Breakage for interstate combined wagering pools shall be calculated in accordance with
41 the statutes and rules and regulations of the host jurisdiction and shall be allocated among the
42 participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this
43 jurisdiction shall be distributed as provided by subsection (h).

1 (5) Upon approval of the respective recognized greyhound owners' group or recognized
2 horsemen's group, the commission may permit an organization licensee to simulcast to other
3 racetrack facilities or off-track wagering or intertrack wagering facilities in other jurisdictions one
4 or more races conducted by such licensee, use one or more races conducted by such licensee for an
5 intrastate combined wagering pool at off-track wagering or intertrack wagering locations outside the
6 commission's jurisdiction and may allow parimutuel pools in other jurisdictions to be combined with
7 parimutuel pools in the commission's jurisdiction for the purpose of establishing an interstate
8 combined wagering pool.

9
10 (6) The participation by a simulcasting licensee in a combined interstate wagering pool does
11 not cause that licensee to be considered to be doing business in any jurisdiction other than the
12 jurisdiction which the licensee is physically located.

13 (k) If the organization licensee, facility owner licensee if any and the recognized horsemen's
14 group or recognized greyhound owners' group are unable to agree concerning a simulcasting
15 application, the matter may be submitted to the commission for determination at the written request
16 of any party in accordance with rules and regulations of the commission.

17
18 (l) This section shall be part of and supplemental to the Kansas parimutuel racing act.

19
20 Sec. 4. On and after July 1, 1996, K.S.A. 1995 Supp. 14-8810; K.S.A. 1995 Supp. 14-8818; and
21 K.S.A. 1995 Supp. 14-8836 are hereby repealed.

22
23 Sec. 5. This act shall take effect and be in force from and after July 1, 1996,
24

AGENCY OR DEPARTMENT NAME -- PROPOSAL NUMBER

Kansas Racing Commission - Proposal No. 2A

BILL TITLE

An act concerning racing with parimutuel wagering; amending K.S.A. 1995 Supp. 74-8802, K.S.A. 1995 Supp. 74-8813, and K.S.A. 1995 Supp. 74-8815.

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. 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. See, draft bill attached.

FISCAL IMPACT

NONE

POLICY IMPLICATIONS/BACKGROUND

The amendment to K.S.A. 74-8802(d) is needed to define what is meant by "crossover employment".

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" adopted by the Kansas courts in Orion Stables, et al, v. Kansas Racing Commission, Kansas Supreme Court Case No. 71,542, (Unpublished 1995).

The amendment to K.S.A. 74-8813(w) specifically authorizes the commission to adopt rules and regulations regulating crossover employment.

The amendment to K.S.A. 74-8815(o) specifically authorizes the commission to adopt rules and regulations regulating crossover employment.

IMPACT ON OTHER STATE AGENCIES

None.

1 An act concerning racing with parimutuel wagering; amending K.S.A. 1995 Supp. 74-8802, K.S.A.
2 1995 Supp. 74-8813, and K.S.A. 1995 Supp. 74-8815.

3
4 Be it enacted by the Legislature of the State of Kansas:

5
6 Section 1. On and after July 1, 1996, K.S.A. 1995 Supp. 74-8802 is hereby amended to read as
7 follows: 74-8802. As used in this act unless the context otherwise requires:

8
9 (a) "Breakage" means the odd cents by which the amount payable on each dollar wagered
10 exceeds:

11
12 (1) a multiple of \$.10, for parimutuel pools from races conducted in this state and

13
14 (2) a multiple of such other number of cents as provided by law of the host jurisdiction, for
15 interstate combined wagering pools.

16
17 (b) "Commission" means the Kansas racing commission created by this act.

18
19 (c) "Concessionaire licensee" means a person, partnership, corporation or association licensed
20 by the commission to utilize a space or privilege within a racetrack facility to sell goods.

21
22 (d) "Crossover employment" means a situation in which an occupational licensee is
23 concurrently employed at the same racing facility by an organization licensee and a facility owner
24 licensee or facility manager licensee.

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

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

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

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

40
41 ~~(h)~~(i) "Fair association" means an association organized pursuant to K.S.A. 2-125 et seq. and
42 amendments thereto or a nonprofit association determined by the commission to be otherwise

1 organized to conduct fair activities pursuant to findings of fact entered by the commission in a
2 license order.

3
4 ~~(i)~~(j) "Financial interest" means an interest that could result directly or indirectly in receiving
5 a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business
6 entity or activity or as a result of a salary, gratuity or other compensation or remuneration from any
7 person.

8
9 ~~(j)~~(k) "Greyhound" means any greyhound breed of dog properly registered with the national
10 greyhound association of Abilene, Kansas.

11
12 ~~(k)~~(l) "Horsemen's association" means any association or corporation:

13
14 (1) All officers, directors, members and shareholders of which are licensed owners of horses
15 or licensed trainers of horses, or both;

16
17 (2) which is applying for or has been issued a facility owner license authorizing ownership
18 of Eureka Downs, Anthony Downs or a racetrack facility on or adjacent to premises used by a fair
19 association to conduct fair activities; and

20
21 (3) none of the officers, directors, members or shareholders of which holds another facility
22 owner license or is an officer, director, member or shareholder of another facility owner licensee.

23
24 ~~(l)~~(m) "Horsemen's nonprofit organization" means any nonprofit organization:

25
26 (1) All officers, directors, members or shareholders of which are licensed owners of horses
27 or licensed trainers of horses, or both; and

28
29 (2) which is applying for or has been issued an organization license authorizing the conduct
30 of horse races at Eureka Downs, Anthony Downs or a racetrack facility on or adjacent to premises
31 used by a fair association to conduct fair activities.

32
33 ~~(m)~~(n) "Host facility" means the racetrack at which the race is run or, if the race is run in a
34 jurisdiction which is not participating in the interstate combined wagering pool, the racetrack or
35 other facility which is designated as the host facility.

36
37 ~~(n)~~(o) "Host jurisdiction" means the jurisdiction where the host facility is located.

38
39 ~~(o)~~(p) "Interstate combined wagering pool" means a parimutuel pool established in one
40 jurisdiction which is combined with comparable parimutuel pools from one or more racing
41 jurisdictions for the purpose of establishing the amount of money returned on a successful wager in
42 the participating jurisdictions.

1 ~~(p)~~(q) "Intertrack wagering" means wagering on a simulcast race at a licensed racetrack
2 facility or at a facility which is licensed in its racing jurisdiction to conduct live races.
3

4 ~~(q)~~(r) "Intrastate combined wagering pool" means a parimutuel pool which is combined with
5 comparable parimutuel pools from one or more racetrack facilities for the purpose of establishing
6 the amount of money returned on a successful wager at the participating racetrack facilities.
7

8 ~~(r)~~(s) "Kansas-whelped greyhound" means a greyhound whelped and raised in Kansas for the
9 first six months of its life.
10

11 ~~(s)~~(t) "Minus pool" means a parimutuel pool in which, after deducting the takeout, not
12 enough money remains in the pool to pay the legally prescribed minimum return to those placing
13 winning wagers, and in which the organization licensee would be required to pay the remaining
14 amount due.
15

16 ~~(t)~~(u) "Nonprofit organization" means:

17
18 (1) A corporation which is incorporated in Kansas as a not-for-profit corporation pursuant
19 to the Kansas general corporation code and the net earnings of which do not inure to the benefit of
20 any shareholder, individual member or person; or
21

22 (2) a fair association.
23

24 ~~(u)~~(v) "Occupation licensee" means a person licensed by the commission to perform an
25 occupation or provide services which the commission has identified as requiring a license pursuant
26 to this act.
27

28 ~~(v)~~(w) "Off-track wagering" means wagering on a simulcast race at a facility which is not
29 licensed in its jurisdiction to conduct live races.
30

31 ~~(w)~~(x) "Organization licensee" means a nonprofit organization licensed by the commission
32 to conduct races pursuant to this act and, if the license so provides, to construct or own a racetrack
33 facility.
34

35 ~~(x)~~(y) "Parimutuel pool" means the total money wagered by individuals on one or more
36 horses or greyhounds in a particular horse or greyhound race to win, place or show, or combinations
37 thereof, as established by the commission, and, except in the case of an interstate or intrastate
38 combined wagering pool, held by the organization licensee pursuant to the parimutuel system of
39 wagering. There is a separate parimutuel pool for win, for place, for show and for each of the other
40 forms of betting provided for by the rules and regulations of the commission.
41

42 ~~(y)~~(z) "Parimutuel wagering" means a form of wagering on the outcome of horse and
43 greyhound races in which those who wager purchase tickets of various denominations on one or

1 more horses or greyhounds and all wagers for each race are pooled and the winning ticket holders
2 are paid prizes from such pool in amounts proportional to the total receipts in the pool.
3

4 ~~(z)~~(aa) "Race meeting" means the entire period of time for which an organization licensee
5 has been approved by the commission to hold live or simulcast horse or greyhound races at which
6 parimutuel wagering is conducted, including such additional time as designated by the commission
7 for the conduct of official business before and after the races.
8

9 ~~(aa)~~(bb) "Racetrack facility" means a racetrack within Kansas used for the racing of horses
10 or greyhounds, or both, including the track surface, grandstands, clubhouse, all animal housing and
11 handling areas, other areas in which a person may enter only upon payment of an admission fee or
12 upon presentation of authorized credentials and such additional areas as designated by the
13 commission.
14

15 ~~(bb)~~(cc) "Racing jurisdiction" or "jurisdiction" means a governmental authority which is
16 responsible for the regulation of live or simulcast racing in its jurisdiction.
17

18 ~~(ee)~~(dd) "Racing or wagering equipment or services licensee" means any person, partnership,
19 corporation or association licensed by the commission to provide integral racing or wagering
20 equipment or services, as designated by the commission, to an organization licensee.
21

22 ~~(dd)~~(ee) "Recognized greyhound owners' group" means the duly recognized group elected
23 in accordance with rules and regulations of the commission by a majority of the Kansas licensed
24 greyhound owners at the racetrack facility voting in the election. The commission may designate an
25 organization such as the national greyhound association of Abilene, Kansas, to conduct the election.
26

27 ~~(ee)~~(ff) "Recognized horsemen's group" means the duly recognized group, representing the
28 breeds of horses running at a racetrack facility, elected in accordance with rules and regulations of
29 the commission by a majority of the licensed owners and trainers at the racetrack facility voting in
30 the election. If the licensee does not have a recognized horsemen's group, the commission shall
31 designate as the recognized horsemen's group one that serves another organization licensee, but not
32 one that serves a fair association organization licensee.
33

34 ~~(ff)~~(gg) "Simulcast" means a live audio-visual broadcast of an actual horse or greyhound race
35 at the time it is run.
36

37 ~~(gg)~~(hh) "Takeout" means the total amount of money withheld from each parimutuel pool
38 for the payment of purses, taxes and the share to be kept by the organization licensee. Takeout does
39 not include the breakage. The balance of each pool less the breakage is distributed to the holders of
40 winning parimutuel tickets.
41

42 Sec. 2. On and after July 1, 1996, K.S.A. 1995 Supp. 74-8813 is hereby amended to read as
43 follows: 74-8813 (a) A nonprofit organization may apply to the commission for an organization

1 license to conduct horse races or an organization license to conduct greyhound races, or both such
2 licenses. In addition, an organization license may authorize the licensee to construct or own a
3 racetrack facility if so provided by the commission. The application for an organization license shall
4 be filed with the commission at a time and place prescribed by rules and regulations of the
5 commission. The application shall specify the days when and the exact location where it proposes
6 to conduct such races and shall be in a form and include such information as the commission
7 prescribes. A nonrefundable application fee in the form of a certified check or bank draft shall
8 accompany the application. Except as provided pursuant to K.S.A. 74-8814 and amendments thereto,
9 such fee shall be \$5,000 for each application. If the application fee is insufficient to pay the
10 reasonable expenses of processing the application and investigating the applicant's qualifications for
11 licensure, the commission shall require the applicant to pay to the commission, at such times and in
12 such form as required by the commission, any additional amounts necessary to pay such expenses.
13 No license shall be issued to an applicant until the applicant has paid such additional amounts in full,
14 and such amounts shall not be refundable except to the extent that they exceed the actual expenses
15 of processing the application and investigating the applicant's qualifications for licensure.

16
17 (b) If an applicant for an organization license is proposing to construct a racetrack facility,
18 such applicant, at the time of submitting the application, shall deposit with the commission, in such
19 form as prescribed by rules and regulations of the commission, the sum of:

20
21 (1) \$500,000, if the number of racing days applied for in a racing season is 150 days or more;

22
23 (2) \$250,000, if the number of racing days applied for is less than 150 days; or

24
25 (3) a lesser sum established by the commission, if the applicant meets the qualifications set
26 forth in subsection (a)(1) or (a)(2) of K.S.A. 74-8814 and amendments thereto or if the applicant will
27 be conducting races only on the state fairgrounds.

28
29 Only one such deposit shall be required for a dual racetrack facility. The executive director shall
30 promptly remit any deposit received pursuant to this subsection to the state treasurer. The state
31 treasurer shall deposit the entire amount in the state treasury and credit it to the racing applicant
32 deposit fund created by K.S.A. 74-8828 and amendments thereto. If the application is denied by the
33 commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the
34 license is granted by the commission in accordance with the terms of the application or other terms
35 satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the
36 licensee upon completion of the racetrack facility in accordance with the terms of the license. If the
37 licensee fails to complete the racetrack facility in accordance with the terms of the license, the
38 deposit, and any interest accrued thereon, shall be forfeited by the applicant.

39
40 (c) To qualify for an organization license to conduct horse or greyhound races:

41
42 (1) The applicant shall be a bona fide, nonprofit organization which, if applicable, meets the
43 requirements of subsection (d);

1 (2) the applicant shall have, either by itself or through contractual relationships with other
2 persons or businesses approved by the commission, the financial capability, manpower and technical
3 expertise, as determined by the commission, to properly conduct horse races or greyhound races, or
4 both, and, if applicable, to operate a parimutuel wagering system;
5

6 (3) if the applicant is proposing to construct a racetrack facility, the applicant shall submit
7 detailed plans for the construction of such facility, including the means and source of financing such
8 construction and operation, sufficient to convince the commission that such plans are feasible;
9

10 (4) submit for commission approval a written copy of each contract and agreement which the
11 applicant proposes to enter into, including all those listed in subsection (n), which contracts and
12 agreements shall conform to the restrictions placed thereon by subsections (n), (o) and (p):
13

14 (5) the applicant shall propose to conduct races within only one county, and in such county
15 the majority of the qualified electors have approved either:
16

17 (A) The constitutional amendment permitting the conduct of horse and dog races and
18 parimutuel wagering thereon; or
19

20 (B) a proposition permitting horse and dog races and parimutuel wagering thereon within the
21 boundaries of such county;
22

23 (6) no director, officer, employee or agent of the applicant shall have been convicted of any
24 of the following in any court of any state or of the United States or shall have been adjudicated in
25 the last five years in any such court of committing as a juvenile an act which, if committed by an
26 adult, would constitute any of the following:
27

28 (A) Fixing of horse or greyhound races;

29 (B) illegal gambling activity;

30 (C) illegal sale or possession of any controlled substance;

31 (D) operation of any illegal business;

32 (E) repeated acts of violence; or
33

34 (F) any felony; and
35

36 (7) no director or officer of the applicant shall be addicted to, and a user of, alcohol or a
37 controlled substance.
38
39
40
41
42

1 (d) To qualify for an organization license to conduct horse or greyhound races, a nonprofit
2 organization, other than a fair association, a horsemen's nonprofit organization or a nonprofit
3 organization conducting races only on the state fair grounds, shall:
4

5 (1) Distribute all of its net earnings from the conduct of horse and greyhound races, other
6 than that portion of the net earnings which is necessary to satisfy the debt service obligations, not
7 otherwise deducted from net earnings. of an organization licensee owning the racetrack facility or
8 that portion of the net earnings which is set aside as reasonable reserves for future improvement.
9 maintenance and repair of the racetrack facility owned by the organization licensee. only to
10 organizations, other than itself, which:

11
12 (A) Have been exempted from the payment of federal income taxes pursuant to section
13 501(c)(3) of the federal internal revenue code of 1986, as in effect July 1, 1987.

14 (B) are domiciled in this state and

15 (C) expend the moneys so distributed only within this state;

16
17 (2) distribute not more than 25% of such net earnings to any one such organization in any
18 calendar year;

19 (3) not engage in, and have no officer, director or member who engages in, any prohibited
20 transaction, as defined by section 503(b) of the federal internal revenue code of 1986, as in effect
21 July 1, 1987; and

22 (4) have no officer, director or member who is not a bona fide resident of this state.

23
24 (e) Within 30 days after the date specified for filing, the commission shall examine each
25 application for an organization license for compliance with the provisions of this act and rules and
26 regulations of the commission. If any application does not comply with the provisions of this act or
27 rules and regulations of the commission, the application may be rejected or the commission may
28 direct the applicant to comply with the provisions of this act or rules and regulations of the
29 commission within a reasonable time, as determined by the commission. Upon proof by the applicant
30 of compliance, the commission may reconsider the application. If an application is found to be in
31 compliance and the commission finds that the issuance of the license would be within the best
32 interests of horse and greyhound racing within this state from the standpoint of both the public
33 interest and the horse or greyhound industry, as determined solely within the discretion of the
34 commission, the commission may issue an organization license to the applicant. The commission
35 shall approve the issuance of organization licenses for a period established by the commission but
36 not to exceed 25 years. Such license may provide that during its term it constitutes an exclusive
37 license within a radius of the location specified in the license, as determined by the commission. No
38 racing of any kind regulated by this act shall be conducted by any other person within the territory
39 covered by such exclusive license without the written consent of the licensee. For each license
40
41
42
43

1 issued, the commission shall specify the location, type, time and date of all races and race meetings
2 which the commission has approved for the licensee to conduct. The license shall be issued upon
3 receipt of the license fee and the furnishing of a surety bond or other financial security approved by
4 the commission, conditioned on, and in an amount determined by the commission as sufficient to
5 pay, the licensee's potential financial liability for unpaid taxes, purses and distribution of parimutuel
6 winnings and breakage. No organization license shall be transferred to any other organization or
7 entity.

8
9 (f) When considering the granting of organization licenses or racing days between two or
10 more competing applicants, the commission shall give consideration to the following factors:

11
12 (1) The character, reputation, experience and financial stability of those persons within the
13 applicant organizations who will be supervising the conduct of the races and parimutuel wagering
14 for the organization:

15
16 (2) the quality of the racing facilities and adjoining accommodations:

17
18 (3) the amount of revenue that can reasonably be expected to be generated from state and
19 local taxes, the economic impact for the respective horse or greyhound breeding industries in Kansas
20 and the indirect economic benefit to the surrounding area, in the determination of which economic
21 benefit the commission shall solicit written recommendations from all interested parties in the
22 surrounding area;

23
24 (4) the location of the race meetings in relation to the principal centers of population and the
25 effect of such centers on the ability of the organizations to sustain a financially sound racing
26 operation; and

27
28 (5) testimony from interested parties at public hearings to be conducted in the geographic
29 areas where the applicants would be conducting their race meetings.

30
31 (g) Except as otherwise provided pursuant to K.S.A. 74-8814 and amendments thereto, each
32 organization licensee shall pay a license fee in the amount of \$200 for each day of racing approved
33 by the commission. Such fees shall be paid at such times and by such means as prescribed by rules
34 and regulations of the commission. The commission may authorize the state treasurer to refund from
35 the state racing fund a fee paid for any racing day which was canceled with advance notice to and
36 with the approval of the commission.

37
38 (h) Organization licensees may apply to the commission for changes in approved race
39 meetings or dates or for additional race meetings or dates as needed throughout the terms of their
40 licenses. Application shall be made upon forms furnished by the commission and shall contain or
41 be accompanied by such information as the commission prescribes. Upon approval by the
42 commission, the organization licensee shall pay an additional license fee for any race days in excess
43 of the number originally approved and included in the calculation of the initial license fee.

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

11
12 (j) Subject to the provisions of subsection (k), the commission, in accordance with the Kansas
13 administrative procedure act, may suspend or revoke an organization license or may impose a civil
14 fine not exceeding \$5,000, or may both suspend such license and impose such fine, for each of the
15 following violations by a licensee:

16
17 (1) One or more violations, or a pattern of repeated violations, of the provisions of this act
18 or rules and regulations of the commission;

19
20 (2) failure to follow one or more provisions of the licensee's plans for the financing,
21 construction or operation of a racetrack facility as submitted to and approved by the commission;

22
23 (3) failure to maintain compliance with the requirements of subsection (c) or (d), if
24 applicable, for the initial issuance of an organization license;

25
26 (4) failure to properly maintain or to make available to the commission such financial and
27 other records sufficient to permit the commission to verify the licensee's nonprofit status and
28 compliance with the provisions of this act or rules and regulations of the commission;

29
30 (5) providing to the commission any information material to the issuance, maintenance or
31 renewal of the licensee's license knowing such information to be false or misleading;

32
33 (6) failure to meet the licensee's financial obligations incurred in connection with the conduct
34 of a race meeting; or

35
36 (7) a violation of K.S.A. 74-8833 and amendments thereto or any rules and regulations
37 adopted pursuant to that section.

38
39 (k) Prior to suspension or revocation of a license pursuant to subsection (j), the commission
40 shall give written notice of the reason therefor in detail to the organization licensee and to all facility
41 owner and facility manager licensees with whom the organization licensee is doing business. Upon
42 receipt of such notice by all of such licensees, the organization licensee shall have 30 days in which
43 to cure the alleged violation, if it can be cured. If the commission finds that the violation has not

1 been cured upon expiration of the 30 days, or upon a later deadline granted by the commission, or
2 if the commission finds that the alleged violation is of such a nature that it cannot be cured, the
3 commission shall proceed to suspend or revoke the license pursuant to subsection (j). Nothing in this
4 subsection shall be construed to preclude the commission from imposing a fine pursuant to
5 subsection (j) even if the violation is cured within 30 days or such other period as provided by the
6 commission.

7
8 (l) Prior to the expiration of an organization license, the organization may apply to the
9 commission for renewal of such license. The renewal application shall be in a form and include such
10 information as the commission prescribes. The commission shall grant such renewal if the
11 organization meets all of the qualifications required for an initial license. The commission may
12 charge a fee for the processing of the renewal application not to exceed the application fee authorized
13 for an initial license.

14
15 (m) Once an organization license has been issued, no person thereafter and during the term
16 of such license shall in any manner become the owner or holder, directly or indirectly, of any shares
17 of stock or certificates or other evidence of ownership or become a director or officer of such
18 organization licensee without first having obtained the written approval of the commission.

19
20 (n) An organization licensee shall submit to the commission for approval a copy of each
21 contract and agreement which the organization licensee proposes to enter into and any proposed
22 modification of any such contract or agreement, including but not limited to those involving:

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

24
25 (2) any person supplying goods and services to the organization licensee, including
26 management, consulting or other professional services;

27
28 (3) any lease of facilities, including real estate or equipment or other personal property; or

29
30 (4) the operation of any concession within or adjacent to the racetrack facility.

31
32 The commission shall reject any such contract or agreement which violates any provision of
33 this act or rules and regulations of the commission, which provides for payment of money or other
34 valuable consideration which is clearly in excess of the fair market value of the goods, services or
35 facilities being purchased or leased or which, in the case of a contract or agreement with a facility
36 owner licensee or a facility manager licensee, would not protect the organization licensee from
37 incurring losses due to contractual liability.

38
39
40 (o) Organization licensees shall not by lease, contract, agreement, understanding or
41 arrangement of any kind grant, assign or turn over to any person the parimutuel system of wagering
42 described in K.S.A. 74-8819 and amendments thereto or the operation and conduct of any horse or
43 greyhound race to which such wagering applies, but this subsection shall not prohibit the

1 organization licensee from contracting with and compensating others for providing services in
2 connection with the financing, acquisition, construction, equipping, maintenance and management
3 of the racetrack facility; the hiring and training of personnel; the promotion of the facility; operation
4 and conduct of a simulcast race displayed by a simulcasting licensee; parimutuel wagering at
5 racetrack facilities; and parimutuel wagering at off-track wagering and intertrack wagering facilities
6 in other jurisdictions to which live races conducted by the organization licensee are simulcast.

7
8 (p) An organization licensee shall not in any manner permit a person other than such licensee
9 to have a share, percentage or proportion of money received from parimutuel wagering at the
10 racetrack facility except as specifically set forth in this act, except that:

11
12 (1) A facility owner licensee may receive gross percentage rental fees under a lease if all
13 terms of the lease are disclosed to the commission and such lease is approved by the commission:

14
15 (2) a person who has contracted with an organization licensee to provide one or more of the
16 services permitted by subsection (o) may receive compensation in the form of a percentage of the
17 money received from parimutuel wagering if such contract is approved by the commission and such
18 person is licensed as a facility manager; and

19
20 (3) a person who has contracted with a simulcasting licensee to allow such licensee to display
21 a simulcast race conducted by such person may receive compensation in the form of a percentage
22 of or a fee deducted from the money received by the licensee from parimutuel wagers placed on such
23 race if such contract is filed with the commission.

24
25 (q) Directors or officers of an organization licensee are not liable in a civil action for damages
26 arising from their acts or omissions when acting as individual directors or officers, or as a board as
27 a whole, of a nonprofit organization conducting races pursuant to this act, unless such conduct
28 constitutes willful or wanton misconduct or intentionally tortious conduct, but only to the extent the
29 directors and officers are not required to be insured by law or are not otherwise insured against such
30 acts or omissions. Nothing in this section shall be construed to affect the liability of an organization
31 licensee for damages in a civil action caused by the negligent or wrongful acts or omissions of its
32 directors or officers, and a director's or officer's negligence or wrongful act or omission, while acting
33 as a director or officer, shall be imputed to the organization licensee for the purpose of apportioning
34 liability for damages to a third party pursuant to K.S.A. 60-258a and amendments thereto.

35
36 (r) If an applicant for an organization license proposes to construct a racetrack facility and
37 the commission determines that such license should be issued to the applicant, the commission shall
38 issue to the applicant an organization license conditioned on the submission by the licensee to the
39 commission, within a period of time prescribed by the commission, of a commitment for financing
40 the construction of the racetrack facility by a financial institution or other source, subject to approval
41 by the commission. If such commitment is not submitted within the period of time originally
42 prescribed by the commission or such additional time as authorized by the commission, the license
43 shall expire at the end of such period.

1 (s) If an organization licensee's license authorizes the construction of a dual racetrack facility,
2 such license shall be conditioned on the completion of such facility within a time specified by the
3 commission. If, within the time specified by the commission, the licensee has not constructed a dual
4 racetrack facility in accordance with the plans submitted to the commission pursuant to subsection
5 (c)(3), the commission, in accordance with the Kansas administrative procedure act, shall:
6

7 (1) Impose upon the licensee a civil fine equal to 5% of the total parimutuel pools for all
8 races held at the licensee's facility on and after the date that racing with parimutuel wagering is first
9 conducted at such facility and until the date that construction of the dual racetrack facility is
10 completed and horse racing has begun; and
11

12 (2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the
13 failure to complete the facility.
14

15 (t) Any license granted an organization licensee to conduct races at a dual racetrack facility
16 shall be conditioned on the organization licensee's conducting *live* horse races on not less than 20%
17 of the annual racing days granted the licensee by the commission. If an organization licensee fails
18 to comply with such condition, the commission shall revoke the organization licensee's license
19 unless the licensee demonstrates reasonable justification for the failure, ~~to complete the facility.~~
20

21 (u) The refusal to renew an organization license shall be in accordance with the Kansas
22 administrative procedure act and shall be subject to review under the act for judicial review and civil
23 enforcement of agency actions.
24

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

36 (w) The commission may adopt rules and regulations regulating crossover employment
37 between organization licensees and facility manager licensees and facility owner licensees.
38

39 Sec. 3. On and after July 1, 1996, K.S.A. 1995 Supp. 74-8815 is hereby amended to read as
40 follows: 74-8815(a) Any person, partnership, corporation or association, or the state of Kansas or
41 any political subdivision thereof, may apply to the commission for a facility, owner license to
42 construct or own, or both, a racetrack facility which includes a racetrack and other areas designed
43 for horse racing or greyhound racing, or both.

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

3
4 (c) A facility owner license or a facility manager license shall be issued for a period
5 established by the commission but not to exceed 25 years. The application for a facility owner
6 license shall be accompanied by a nonrefundable fee of \$5,000. An application for a facility
7 manager license shall be accompanied by a nonrefundable fee of \$5,000. If the application fee is
8 insufficient to pay the reasonable expenses of processing the application and investigating the
9 applicant's qualifications for licensure, the commission shall require the applicant to pay to the
10 commission, at such times and in such form as required by the commission, any additional amounts
11 necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid
12 such additional amounts in full, and such amounts shall not be refundable except to the extent that
13 they exceed the actual expenses of processing the application and investigating the applicant's
14 qualifications for licensure.

15
16 (d) If an applicant for a facility owner license is proposing to construct a racetrack facility,
17 such applicant, at the time of submitting the application, shall deposit with the commission in such
18 form as prescribed by rules and regulations of the commission the sum of

19
20 (1) \$500,000, if the number of racing days applied for by organization licensee applicants
21 proposing to race at the facility is 150 days or more in a racing season;

22
23 (2) \$250,000, if such number of racing days applied for is less than 150 days; or

24
25 (3) a lesser sum established by the commission if the applicant is the state or a political
26 subdivision of the state.

27
28 Only one such deposit shall be required for a dual racetrack facility. The executive director shall
29 promptly, remit any deposit received pursuant to this subsection to the state treasurer. The state
30 treasurer shall deposit the entire amount in the state treasury and credit it to the racing applicant
31 deposit fund created by K.S.A. 74-8828 and amendments thereto. If the application is denied by the
32 commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the
33 license is granted by the commission in accordance with the terms of the application or other terms
34 satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the
35 licensee upon completion of the racetrack facility in accordance with the terms of the license. If the
36 licensee fails to complete the racetrack facility in accordance with the terms of the license, the
37 deposit, and any interest accrued thereon, shall be forfeited by the applicant.

38
39 (e) A facility owner license shall be granted only, to an applicant that already owns an
40 existing racetrack facility or has submitted with its application detailed plans for the construction
41 of such facility, including the means and source of financing such construction and operation
42 sufficient to convince the commission that such plans are feasible. A facility manager license shall

1 be granted only to an applicant that has a facility management contract with an organization licensed
2 pursuant to K.S.A. 74-8813 and amendments thereto.

3
4 (f) An applicant for a facility owner license or facility manager license, or both, shall not be
5 granted a license if there is substantial evidence that the applicant for the license, or any officer or
6 director, stockholder, member or owner of or other person having a financial interest in the applicant:
7

8 (1) Has been suspended or ordered to cease operation of a parimutuel racing facility in
9 another jurisdiction by the appropriate authorities in that jurisdiction, has been ordered to cease
10 association or affiliation with such a racing facility or has been banned from such a racing facility:
11

12 (2) has been convicted by a court of any state or of the United States of any criminal act
13 involving fixing or manipulation of parimutuel races, violation of any law involving gambling or
14 controlled substances or drug violations involving horses or greyhounds, or has been adjudicated in
15 the last five years in any such court of committing as a juvenile an act which, if committed by an
16 adult, would constitute such a criminal act, or if any employee or agent assisting the applicant in
17 activities relating to ownership or management of a racetrack facility or to the conduct of races has
18 been so convicted or adjudicated;
19

20 (3) has been convicted by a court of any state or of the United States of any felony involving
21 dishonesty, fraud, theft, counterfeiting, alcohol violations or embezzlement or has been adjudicated
22 in the last five years in any such court of committing as a juvenile an act which, if committed by an
23 adult, would constitute such a felony or if any employee or agent assisting the applicant in activities
24 relating to ownership or management of a racetrack facility or to the conduct of races has been so
25 convicted or adjudicated;
26

27 (4) has not demonstrated financial responsibility sufficient to meet the obligations being
28 undertaken pursuant to its contract with the organization licensee;
29

30 (5) is not in fact the person or entity authorized to or engaged in the licensed activity;
31

32 (6) is or becomes subject to a contract or option to purchase under which 10% or more of the
33 ownership or other financial interest or membership interest are subject to purchase or
34 transfer, unless the contract or option has been disclosed to the commission and the commission has
35 approved the sale or transfer during the license period;
36

37 (7) has made a statement of a material fact in the application or otherwise in response to
38 official inquiry by the commission knowing such statement to be false; or
39

40 (8) has failed to meet any monetary or tax obligation to the federal government or to any state
41 or local government, whether or not relating to the conduct or operation of a race meet held in this
42 state or any other jurisdiction.
43

1 (g) No person or entity shall be qualified to hold a facility manager license if such person or
2 entity, or any director, officer, employee or agent thereof, is addicted to and a user of, alcohol or a
3 controlled substance.
4

5 (h) All facility owner licenses and facility manager licenses shall be reviewed annually by
6 the commission to determine if the licensee is complying with the provisions of this act and rules
7 and regulations of the commission and following such proposed plans and operating procedures
8 as were approved by the commission. The commission may review a facility owner license or
9 facility manager license more often than annually upon its own initiative or upon the request of any
10 interested party. The commission shall require each facility owner licensee and each facility manager
11 licensee to file annually with the commission a certified financial audit of the licensee by an
12 independent certified public accountant, which audit shall be open to inspection by the public, and
13 may require any such licensee to provide any other information necessary for the commission to
14 conduct the annual or periodic review.
15

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

21 (1) In the case of a facility owner licensee, the licensee has failed to follow one or more
22 provisions of the licensee's plans for the financing, construction or operation of a racetrack facility
23 as submitted to and approved by the commission; or
24

25 (2) in the case of either a facility owner licensee or facility manager licensee. the licensee
26 has violated any of the terms and conditions of licensure provided by this section or any other
27 provision of this act or any rule and regulation of the commission.
28

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

39 (k) If an applicant for a facility owner license proposes to construct a racetrack facility and
40 the commission determines that such license should be issued to the applicant, the commission shall
41 issue to the applicant a facility owner license conditioned on the submission by the licensee to the
42 commission, within a period of time prescribed by the commission, of a commitment for financing
43 the construction of the racetrack facility by a financial institution or other source, subject to approval

1 by the commission. If such commitment is not submitted within the period of time originally
2 prescribed by the commission or such additional time as authorized by the commission, the license
3 shall expire at the end of such period.
4

5 (I) If a facility owner licensee's license authorizes the construction of a dual racetrack facility,
6 such license shall be conditioned on the completion of such facility within a time specified by the
7 commission. If, within the time specified by the commission, the licensee has not constructed a dual
8 racetrack facility in accordance with the plans submitted to the commission pursuant to subsection
9 (e), the commission, in accordance with the Kansas administrative procedure act, shall:

10 (1) Impose upon the licensee a civil fine equal to 5% of the total parimutuel pools for all
11 races held at the licensee's facility on and after the date that racing with parimutuel wagering is first
12 conducted at such facility and until the date that construction of the dual racetrack facility is
13 completed and horse racing has begun; and
14

15 (2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the
16 failure to complete the facility.
17

18 (m) The refusal to renew a facility owner license or a facility manager license shall be in
19 accordance with the Kansas administrative procedure act and shall be subject to review under the
20 act for judicial review and civil enforcement of agency actions.
21

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

33 (o) The commission may adopt rules and regulations regulating crossover employment
34 between facility manager licensees and facility owner licensees and organization licensees.
35

36 Sec. 4. On and after publication of the foregoing in the Kansas register, K.S.A. 1995 Supp. 74-8802;
37 K.S.A. 1995 Supp. 74-8813; and K.S.A. 1995 Supp. 74-8815 are hereby repealed.
38

39 Sec. 5. This act shall take effect and be in force from and after publication in the Kansas register.
40