

Approved: March 16, 1998
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 10, 1998 in Room 519-S of the Capitol.

All members were present except: Representative Ray Cox, Excused

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

Conferees appearing before the committee: Glenn O. Thompson, Chairman, Stand Up For Kansas

Others attending: See attached list

The Chairman stated the minutes of February 17, 18, 23, 26 and March 4 were distributed and would be taken up later in the meeting.

The Chairman opened the hearing on HB 2999.

HB 2999 - Concerning lottery machines, relating to the unlawful sale of lottery tickets.

The Chairperson stated Greg Ziemack, Executive Director, Kansas Lottery, was unable to attend as he was in Connecticut because of the tragedy there. Mr. Ziemack had previously worked at the lottery there and knew some of the people well. There are others from the lottery present, i.e., Kevin Scott, Director of Administration, Carl Anderson, Assistant Attorney General and Bill Griffin, Sales Director.

Jill Wolters, Revisors of Statutes Office, gave a briefing on HB 2999, stating the lottery machine means any machine or device that allows a player to insert cash, any form of credit or other consideration, and may deliver, as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to, interactive lottery machines and noninteractive lottery machines. This prohibits actual dispensing machines. The word "video" has been eliminated. Section 3 makes it unlawful for any person to sell a lottery ticket or share to any person under the age 18.

Glenn O. Thompson, Chairman, Stand Up For Kansas, a proponent to HB 2999, testified this bill closes loopholes in two areas of the lottery and bingo statutes: (1) prohibition of lottery machines and (2) selling of lottery tickets to minors under 18 years of age. The bill does not impact statutes related to Kansas Lottery over-the-counter retail ticket sales.

There are loopholes in the bill as the present statute does not prohibit lottery machines that dispense preprinted lottery tickets. In fact, the Kansas Lottery currently owns and operates lottery ticket dispensers at some retail facilities. In 1996, the Attorney General offered an opinion that the pull-tab dispenser that was displayed in the capitol was not prohibited. The present statute does not clearly prohibit operation of a lottery machine controlled from a remote computer. The present statute does not prohibit operation of non-electronic slot machines.

The present statute needs to be more explicit in the area of "skill" versus "chance." The statute allows a retailer to sell a lottery ticket to any teenager if the retailer does not know the teenager is under 18. (Attachment 1)

Kevin Scott, Director of Administration, The Kansas Lottery, answered questions regarding HB 2999 (Attachment 2).

The Chairman closed the hearing on HB 2999 and stated the bill would be worked at a later date when Mr. Ziemack was able to be in attendance.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S
Statehouse, at 1:30 p.m. on March 10, 1998.

23, 26 and March 4. The motion carried.

The meeting adjourned at 2:10 p.m .

The next meeting is scheduled for March 11, 1998.

STAND UP FOR KANSAS



Citizens for Stable Economic Growth and Quality of Life in Kansas

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**Testimony To House Federal and State Affairs Committee
on**

House Bill 2999

by
Glenn O. Thompson
Chairman, Stand Up For Kansas

March 10, 1998

Good afternoon Chairman Boston and other members of the committee. Thank you for this opportunity to speak at this public hearing on House Bill 2999. As in the past, I am speaking on behalf of the grass-roots citizens across the state who oppose the expansion of gambling in Kansas. **We urge you to support this bill.**

Summary

Let me begin by saying what this bill **does** and **does not** do. This bill **closes loopholes** in two areas of the lottery and bingo statutes: (1) prohibition of lottery machines and (2) selling of lottery tickets to minors under 18 years of age. The bill **does not** impact statutes related to Kansas Lottery over-the-counter retail ticket sales.

Loopholes

In 1992, the legislature amended the Kansas Lottery Act to prohibit operation of video lottery machines. Since that time, Kansas Supreme Court rulings, Attorney General opinions, court cases in other states and advanced computer technology have exposed major loopholes and/or probable loopholes in the statute. For example,

1. The present statute **does not prohibit** lottery machines that dispense preprinted lottery tickets. In fact, the **Ks. Lottery currently owns and operates lottery ticket dispensers at some retail facilities.**

Further, in 1996, the Attorney General (AG) offered an opinion that the **pull-tab dispenser**, displayed in the capitol that year, **is not prohibited**. You may recall that the machine looked like a slot machine, sounded like a slot machine, and in the opinion of

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many legislators, was a slot machine. The only difference was that the machine dispensed preprinted paper pull-tabs, printed in California, rather than metal tokens. The AG said the machine is legal since "... the vending machine does not generate the tickets, it merely dispenses them." In other words, if tickets are generated in the machine, the machine is prohibited. If the tickets are generated outside the machine the machine is legal.

2. The present statute **does not clearly prohibit** operation of a lottery machine **controlled from a remote computer**. The present statute appears to prohibit only machines controlled by internal computers (microprocessors). Several opinions provided by the AG seem to support this position. (AG opinions 92-125 and 96-39)
3. The present statute **does not prohibit** operation of non-electronic (mechanical) slot machines. The AG thinks these machines are prohibited, but the AG's rationale is controversial. (AG opinion 92-125)
4. The present statute **needs to be more explicit in the area of "skill" versus "chance."** This is becoming an issue in several states, and last week the South Carolina Supreme Court agreed to hear a case on this subject. Gambling proponents contend that a video poker machine is not a lottery machine since "skill predominates over chance." According to proponents, the only activity involving chance is dealing of the cards, and all other plays are based on skill.
5. Finally, the statutes allow a retailer to sell a lottery ticket **to any teenager if the retailer does not know the teenager is under 18**. [K.S.A. 74-8718 (a)]

We urge you to support this bill for three reasons:

1. To close the loopholes on prohibition of lottery machines

Present lottery statutes related to the prohibition of lottery machines are ambiguous and have numerous loopholes. Some types of machines appear to be prohibited, while others are not. Consequently, Attorney General opinions often appear to be arbitrary and contradictory because of ambiguous statutes.

2. To stop the expansion of lottery machines across the state

Lottery machines are extremely addictive. Access is easy. Gratification is immediate. So, it's easy to get hooked. To the surprise of many legislators, **the Ks. Lottery has installed "adults only" lottery machines in some retail outlets.** If not prohibited, Ks. Lottery officials will probably continue to install additional lottery machines throughout the state in retail outlets, such as malls, grocery stores, convenience stores and bars. In West Virginia, convenience store retailers are considering installing lottery machines **on gas pump islands** to increase revenues. In Iowa, lottery retailers are awarded a higher commission rate on instant tickets **if lottery machines with eight or more games are located next to a cash register.** And, **casinos in malls** are becoming common in some states.

3. To protect Kansas youth

“Adults-only” lottery machines are an attractive hazard to youth. Why does the state **prohibit** cigarette dispensers in public facilities and not lottery machines? Lottery machines operated by the Ks. Lottery in retail outlets are supposed to be monitored by retailers to assure minors under 18 do not play. But, it is impossible to prevent some youth from playing “open” machines, no matter how tight the security, particularly if the monitor has other duties.

In Louisiana, gambling problems among youth and adolescents are a major public health concern. A recent survey conducted by the La. medical profession found that **one out of seven adolescents age 18-21 have a gambling problem, probably begun as a youth.**

Conclusion

In conclusion, HB 2999 will close loopholes in lottery and bingo statutes related to prohibition of lottery machines and selling of lottery tickets to minors under 18. We urge you to support this bill.

Kevin Scott

HB 2999

An act concerning lottery machines; relating to the unlawful sale of lottery tickets; amending K.S.A. 74-8702 and 79-4701 and K.S.A. 1997 Supp. 74-8710, 74-8718 and 74-9802 and repealing the existing sections.

K.S.A. 74-8702 is proposed to be amended to add (definitions)

Section 1:

(n) "Lottery machine" means any machine or device that allows a player to insert cash, any form of credit or other consideration, and may deliver, as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to, interactive lottery machines and noninteractive lottery machines.

(p) "Noninteractive lottery machine" means a lottery machine in which the prize is determined only by chance, including, but not limited to, slot machines, bingo, keno ticket dispensers, lottery ticket dispensers, pull-tab dispensers and instant bingo dispensers.

K.S.A. 74-8710 is proposed to be amended to change an existing prohibition against "video lottery machines" to include all "lottery machines" (interactive and noninteractive).

KEY POINTS

- * The Kansas Lottery has utilized lottery ticket dispensers over the past eight (8) years, including at the Kansas State Fair to dispense instant and pull-tab tickets.
- * The Kansas Lottery currently has fifty (50) lottery ticket dispensers placed in establishments certified to sell Lottery products. These fifty machines are expected to produce approximately \$1 million in sales, and \$312,500 in revenues for the State Gaming Revenues Fund each year.
- * Some Kansas Lottery retailers have purchased their own lottery ticket dispensers to dispense Lottery pull-tab tickets and have been using the ticket dispensers for several years.
- * Of the 35 state lotteries in the United States, 30 are legally utilizing lottery ticket dispensers to dispense state lottery tickets.
- * The correlation between lottery ticket dispensers and increased lottery ticket sales is well documented:

<u>State Lottery</u>	<u># Dispensers</u>	<u>Annual Sales</u>
Missouri	625	\$27,500,000
Iowa	531	\$25,000,000
Colorado – has recently implemented 486 machines		

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