

SENATE BILL No. 260

By Committee on Ways and Means

2-11

1 AN ACT concerning parimutuel wagering; relating to the Kansas  
2 parimutuel racing act; modifying the qualifications for an organization  
3 license; redefining horsemen's associations and horsemen's nonprofit  
4 organizations; changing the distribution of certain tax revenues;  
5 amending K.S.A. 74-8826, 74-8829 and 74-8838 and K.S.A. 2024  
6 Supp. 74-8802 and 74-8814 and repealing the existing sections.

74-8815,

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2024 Supp. 74-8802 is hereby amended to read as  
10 follows: 74-8802. As used in the Kansas parimutuel racing act unless the  
11 context otherwise requires:

12 (a) "Breakage" means the odd cents by which the amount payable on  
13 each dollar wagered exceeds:

14 (1) A multiple of \$.10, for parimutuel pools from races conducted in  
15 this state; and

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

18 (b) "Commission" means the Kansas racing and gaming commission  
19 created by this act.

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

23 (d) "Contract" means an agreement, written or oral, between two or  
24 more persons, partnerships, corporations or associations, or any  
25 combination thereof that creates an obligation between the parties.

26 (e) "Crossover employment" means a situation in which an  
27 occupational licensee is concurrently employed at the same racing facility  
28 by an organization licensee and a facility owner licensee or facility  
29 manager licensee.

30 (f) "Dual racetrack facility" means a racetrack facility for the racing  
31 of both horses and greyhounds or two immediately adjacent racetrack  
32 facilities, owned by the same licensee, one for racing horses and one for  
33 racing greyhounds.

34 (g) "Employee" means a person who has applied for a position of  
35 employment or is currently employed by the commission.

36 (h) "Executive director" means the executive director of the

1 (A) The Kansas quarter horse racing association and the Kansas  
2 thoroughbred association; or

3 (B) a horsemen's nonprofit organization.

4 (4) If the applicant is a horsemen's nonprofit organization intending  
5 to conduct live horse racing, such applicant shall not conduct live horse  
6 racing prior to March 1, 2028, unless such licensee intends to conduct  
7 such races at Eureka Downs;

8 (b) The commission shall adopt rules and regulations providing for  
9 simplified and less costly procedures and requirements for fair associations  
10 and horsemen's nonprofit organizations applying for or holding a license to  
11 conduct race meetings.

12 (c) The Kansas racing and gaming commission shall investigate:

13 (1) The president, ~~vice-president~~ vice president, secretary and  
14 treasurer of a fair association, and such other members as the commission  
15 considers necessary, to determine eligibility for an organization license;

16 (2) each officer and each director of a ~~nonprofit~~ horsemen's nonprofit  
17 organization, and such other members or shareholders as the commission  
18 considers necessary to determine eligibility for an organization license.

19 (d) Except as otherwise provided by this section, all applicants for  
20 organization licenses for the conduct of race meetings pursuant to the  
21 provisions of this section shall be required to comply with all the  
22 provisions of K.S.A. 74-8813, and amendments thereto.

23 Sec. 3. K.S.A. 74-8826 is hereby amended to read as follows: 74-  
24 8826. (a) There is hereby created the state racing fund in the state treasury.

25 (b) Except as otherwise provided by K.S.A. 74-8824 and 74-8835,  
26 and amendments thereto, all taxes on parimutuel wagering, admissions tax,  
27 application fees, license fees and fines ~~which~~ that are collected by the  
28 commission shall be remitted to the state treasurer in accordance with the  
29 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
30 each such remittance, the state treasurer shall deposit the entire amount in  
31 the state treasury to the credit of the state racing fund. All moneys credited  
32 to such fund shall be expended or transferred only for the purposes and in  
33 the manner provided by this act. Expenditures from such fund shall be  
34 made in accordance with appropriation acts upon warrants of the director  
35 of accounts and reports issued pursuant to vouchers approved by the  
36 chairperson of the commission or a person designated by the chairperson.

37 (c) Except as otherwise provided by this act, all operating expenses of  
38 the commission and moneys for the promotion of horse and greyhound  
39 racing appropriated by the legislature shall be paid from the state racing  
40 fund. On January 15, 1990, and on the 15<sup>th</sup> day of each month thereafter,  
41 and at such other times as provided by law, the director of accounts and  
42 reports shall transfer to the state gaming revenues fund created by K.S.A.  
43 79-4801, and amendments thereto, any moneys in the state racing fund on

and:

(A)

; and

(B) such applicant shall not operate historical horse race machines

Insert Attachment A

And by renumbering sections accordingly

(1) Reimbursement of the commission for the commission's administrative costs, as established by rules and regulations of the commission, related to race meetings conducted by a fair association or a horsemen's nonprofit organization, including the cost of stewards, racing judges and assistant animal health officers performing services at such race meetings;

(2) paying the costs of totalisator expenses incurred by an organization licensee that is a fair association or horsemen's nonprofit organization;

(3) paying the costs of background investigations required under the Kansas parimutuel racing act for members of a fair association or horsemen's nonprofit organization;

(4) *paying the costs related to any lease agreement for land, equipment or other materials necessary to conduct a race meeting;*

(5) purse supplements at race meetings conducted by a fair association or horsemen's nonprofit organization;

(~~5~~)(6) basic operating assistance grants to an organization licensee that is a fair association or horsemen's nonprofit organization; and

(~~6~~)(7) costs for employment of key racing officials, as determined by the commission, incurred by an organization licensee that is a fair association or horsemen's nonprofit organization.

(~~4~~)(e) The commission shall adopt rules and regulations establishing procedures for distributing moneys in the horse fair racing benefit fund to fair associations and nonprofit horsemen's organizations for the purposes provided by this section.

(~~6~~)(f) Expenditures from the horse fair racing benefit fund related to the conduct of a race meeting shall not be allocated to any organization licensee for a period exceeding 40 days.

(~~4~~)(g) Expenditures from the horse fair racing benefit fund shall not be allocated to any organization licensee to support the conduct of parimutuel greyhound races unless the organization licensee conducts an equal or greater number of parimutuel horse races during the race meeting.

(~~6~~)(h) Expenditures from the horse fair racing benefit fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

Sec. 6. K.S.A.74-8826, 74-8829 and 74-8838 and K.S.A. 2024 Supp. 74-8802 and 74-8814 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

## Attachment A

Sec. 3 K.S.A. 74-8815 is hereby amended to read as follows: 74-8815.

- (a) Any person, partnership, corporation or association, or the state of Kansas or any political subdivision thereof, may apply to the commission for a facility owner license to construct or own, or both, a racetrack facility which that includes a racetrack and other areas designed for horse racing or greyhound racing, or both.
- (b) Any person, partnership, corporation or association may apply to the commission for a facility manager license to manage a racetrack facility.
- (c) A facility owner license or a facility manager license shall be issued for a period established by the commission but not to exceed 25 years. The application for a facility owner license shall be accompanied by a nonrefundable fee of \$5,000. An application for a facility manager license shall be accompanied by a nonrefundable fee of \$5,000. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.
- (d) If an applicant for a facility owner license is proposing to construct a racetrack facility, such applicant, at the time of submitting the application, shall deposit with the commission, in such form as prescribed by rules and regulations of the commission, the sum of: (1) \$500,000, if the number of racing days applied for is less than 150 days; or (2) \$250,000, if such number of racing days applied for is less than 150 days; or (3) a lesser sum established by the commission, if the applicant is the state or a political subdivision of the state. Only one such deposit shall be required for a dual racetrack facility. The executive director shall remit any deposit received pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the racing applicant deposit fund created by K.S.A. 74-8828, and amendments thereto. If the application is denied by the commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the license is granted by the commission in accordance with the terms of the application or other terms satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the licensee upon completion of the racetrack facility in accordance with the terms of the license. If the licensee fails to complete the racetrack facility in accordance with the terms of the license, the deposit, and any interest accrued thereon, shall be forfeited by the applicant.
- (e) A facility owner license shall be granted only to an applicant that already owns an existing racetrack facility or has submitted with its application detailed plans for the construction of such facility, including the means and source of financing such construction and operation sufficient to convince the commission that such plans are feasible. A facility manager license shall be granted only to an applicant that has a facility management contract with an organization licensed pursuant to K.S.A. 74-8813, and amendments thereto.
- (f) An applicant for a facility owner license or facility manager license, or both, shall not be granted a license if there is substantial evidence that the applicant for the license, or any officer or director, stockholder, member or owner of or other person having a financial interest in the applicant:
  - (1) Has been suspended or ordered to cease operation of a parimutuel racing facility in another jurisdiction by the appropriate authorities in that jurisdiction, has been ordered to cease association or affiliation with such a racing facility or has been banned from such a racing facility;
  - (2) has been convicted by a court of any state or of the United States of any criminal act involving fixing or manipulation of parimutuel races, violation of any law involving gambling or controlled substances or drug violations involving horses or greyhounds, or has been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute such a criminal act, or if any employee or agent assisting the applicant in activities relating to ownership or management of a racetrack facility or to the conduct of races has been so convicted or adjudicated;
  - (3) has been convicted by a court of any state or of the United States of any felony involving dishonesty, fraud, theft, counterfeiting, alcohol violations or embezzlement, or has been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute such a felony, or if any employee or agent assisting the applicant in activities relating to ownership or management of a racetrack facility or to the conduct of races has been so convicted or adjudicated;
  - (4) has not demonstrated financial responsibility sufficient to meet the obligations being undertaken pursuant to its contract with the organization licensee;
  - (5) is not in fact the person or entity authorized to or engaged in the licensed activity;
  - (6) is or becomes subject to a contract or option to purchase under which 10% or more of the ownership or other financial interest or membership interest are subject to purchase or transfer, unless the contract or option has been disclosed to the commission and the commission has approved the sale or transfer during the license period;
  - (7) has made a statement of a material fact in the application or otherwise in response to official inquiry by the commission knowing such statement to be false; or
  - (8) has failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

- (g) No person or entity shall be qualified to hold a facility manager license if such person or entity, or any director, officer, employee or agent thereof, is addicted to, and a user of, alcohol or a controlled substance.
- (h) If the applicant for a facility owner license or facility manager license is a horsemen's association, such applicant shall not operate historical horse race machines at such racetrack facility.
- (i) All facility owner licenses and facility manager licenses shall be reviewed annually by the commission to determine if the licensee is complying with the provisions of this act and rules and regulations of the commission and following such proposed plans and operating procedures as were approved by the commission. The commission may review a facility owner license or facility manager license more often than annually upon its own initiative or upon the request of any interested party. The commission shall require each facility owner licensee and each facility manager licensee to file annually with the commission a certified financial audit of the licensee by an independent certified public accountant, which audit shall be open to inspection by the public, and may require any such licensee to provide any other information necessary for the commission to conduct the annual or periodic review.
- (j) Subject to the provisions of subsection (i), the commission, in accordance with the Kansas administrative procedure act, may suspend or revoke a facility owner or facility manager license or may impose a civil fine not exceeding \$10,000 per failure or violation, or may both suspend such license and impose such fine, if the commission finds probable cause to believe that:
  - (1) In the case of a facility owner licensee, the licensee has failed to follow one or more provisions of the licensee's plans for the financing, construction or operation of a racetrack facility as submitted to and approved by the commission; or
  - (2) in the case of either a facility owner licensee or facility manager licensee, the licensee has violated any of the terms and conditions of licensure provided by this section or any other provision of this act or any rule and regulation of the commission.
- (k) Prior to suspension or revocation of a license pursuant to subsection (j), the commission shall give written notice of the reason therefor to the licensee and all other interested parties. The license shall have 30 days from receipt of the notice to cure the alleged failure or violation, if it can be cured. If the commission finds that the failure or violation has not been cured upon expiration of the 30 days or upon a later deadline granted by the commission, or if the alleged violation is of such a nature that it cannot be cured, the commission may proceed to suspend or revoke the licensee's license pursuant to subsection (j). Nothing in this subsection shall be construed to preclude the commission from imposing a fine pursuant to subsection (j) even if the violation is cured within 30 days or such other period as provided by the commission.
- (l) If an applicant for a facility owner license proposes to construct a racetrack facility and the commission determines that such license should be issued to the applicant, the commission shall issue to the applicant a facility owner license conditioned on the submission by the licensee to the commission, within a period of time prescribed by the commission, of a commitment for financing the construction of the racetrack facility by a financial institution or other source, subject to approval by the commission. If such commitment is not submitted within the period of time originally prescribed by the commission or such additional time as authorized by the commission, the license shall expire at the end of such period.
- (m) If a facility owner licensee's license authorizes the construction of a dual racetrack facility, such license shall be conditioned on the completion of such facility within a time specified by the commission. If, within the time specified by the commission, the licensee has not constructed a dual racetrack facility in accordance with the plans submitted to the commission pursuant to subsection (e), the commission, in accordance with the Kansas administrative procedure act, shall:
  - (1) Impose upon the licensee a civil fine equal to 5% of the total parimutuel pools for all races held at the licensee's facility on and after the date that racing with parimutuel wagering is first conducted at such facility and until the date that construction of the dual racetrack facility is completed and horse racing has begun; and
  - (2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the failure to complete the facility.
- (n) The refusal to renew a facility owner license or a facility manager license shall be in accordance with the Kansas administrative procedure act and shall be subject to review under the Kansas judicial review act.
- (o) The grant or denial of an original facility owner license or facility manager license shall not be subject to the Kansas administrative procedure act. Such grant or denial shall be a matter to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one of two or more competing applicants without the necessity of a hearing on the denial of a license to each other competing applicant. Any action for judicial review of such decision shall be by appeal to the supreme court in accordance with the Kansas judicial review act, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for the facility owner license or facility manager license shall be parties to such appeal. Any such appeal shall have priority over other cases except those having statutory priority.
- (p) The commission may adopt rules and regulations regulating crossover employment between facility manager licensees and facility owner licensees and organization licensees.

