

**SENATE BILL No. 440**

By Committee on Federal and State Affairs

3-13

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1 AN ACT concerning the Kansas expanded lottery act; amending K.S.A.  
2 2013 Supp. 74-8741, 74-8746 and 74-8747 and repealing the existing  
3 sections.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. The Kansas lottery commission shall negotiate an  
7 addendum to existing lottery gaming facility management contracts that  
8 prohibit the state from operating electronic gaming machines at parimutuel  
9 licensee locations in the south central gaming zone until after July 1, 2032.

10 Sec. 2. K.S.A. 2013 Supp. 74-8741 is hereby amended to read as  
11 follows: 74-8741. (a) The executive director of the Kansas lottery shall  
12 negotiate a racetrack gaming facility management contract to place  
13 electronic gaming machines at one parimutuel licensee location in each  
14 gaming zone except the southwest Kansas gaming zone *and the south*  
15 *central Kansas gaming zone.*

16 (b) To be eligible to enter into a racetrack gaming facility  
17 management contract the prospective racetrack gaming facility manager  
18 shall, at a minimum:

19 (1) Have sufficient access to financial resources to support the  
20 activities required of a racetrack gaming facility manager under the Kansas  
21 expanded lottery act; and

22 (2) be current in filing all applicable tax returns and in payment of all  
23 taxes, interest and penalties owed to the state of Kansas and any taxing  
24 subdivision where such prospective manager is located in the state of  
25 Kansas, excluding items under formal appeal pursuant to applicable  
26 statutes.

27 (c) A racetrack gaming facility management contract shall include:

28 (1) The term of the contract;

29 (2) provisions for the Kansas racing and gaming commission to  
30 oversee all racetrack gaming facility operations, including, but not limited  
31 to: Oversight of internal controls; oversight of security of facilities;  
32 performance of background investigations, determination of qualifications  
33 and any required certification or licensing of officers, directors, board  
34 members, employees, contractors and agents of the racetrack gaming  
35 facility manager; auditing of net electronic gaming machine income and  
36 maintenance of the integrity of electronic gaming machine operations;

1 (3) provisions for the racetrack gaming facility manager to pay the  
2 costs of oversight and regulation of the racetrack gaming facility manager  
3 under this act and such manager's racetrack gaming facility operations by  
4 the Kansas racing and gaming commission; and

5 (4) enforceable provisions: (A) Prohibiting the state, until July 1,  
6 2032, from (i) entering into management contracts for more than ~~three~~  
7 *four* lottery gaming facilities or similar gaming facilities, one to be located  
8 in the northeast Kansas gaming zone, one to be located in the south central  
9 Kansas gaming zone, *one to be located in the southwest Kansas gaming*  
10 *zone* and one to be located in the southeast Kansas gaming zone, (ii)  
11 designating additional areas of the state where operation of lottery gaming  
12 facilities or similar gaming facilities would be authorized or (iii) operating  
13 an aggregate of more than 2,800 electronic gaming machines at all  
14 parimutuel licensee locations; and (B) requiring the state to repay to the  
15 racetrack gaming facility manager an amount equal to the privilege fee  
16 paid by such racetrack gaming facility manager, plus interest on such  
17 amount, compounded annually at the rate of 10%, if the state violates the  
18 prohibition provision described in (A).

19 (d) Racetrack gaming facility management contracts authorized by  
20 this section may include provisions relating to:

21 (1) Accounting procedures to determine net electronic gaming  
22 machine income, unclaimed prizes and credits;

23 (2) minimum requirements for a racetrack gaming facility manager to  
24 provide qualified oversight, security and supervision of electronic gaming  
25 machines including the use of qualified personnel with experience in  
26 applicable technology;

27 (3) eligibility requirements for employees, contractors or agents of a  
28 racetrack gaming facility manager who will have responsibility for or  
29 involvement with electronic gaming machines or for the handling of cash  
30 or tokens;

31 (4) background investigations to be performed by the Kansas racing  
32 and gaming commission;

33 (5) credentialing or certification requirements of any employee,  
34 contractor or agent as provided by the Kansas expanded lottery act or rules  
35 and regulations adopted pursuant thereto;

36 (6) provision for termination of the management contract by either  
37 party for cause; and

38 (7) any other provision deemed necessary by the parties, including  
39 such other terms and restrictions as necessary to conduct racetrack gaming  
40 facility operations in a legal and fair manner.

41 (e) A person who is the manager of a lottery gaming facility in a  
42 gaming zone shall not be eligible to be the manager of the racetrack  
43 gaming facility in the same zone.

1 (f) A racetrack gaming facility management contract shall not  
2 constitute property, nor shall it be subject to attachment, garnishment or  
3 execution, nor shall it be alienable or transferable, except upon approval  
4 by the executive director, nor shall it be subject to being encumbered or  
5 hypothecated.

6 Sec. 3. K.S.A. 2013 Supp. 74-8746 is hereby amended to read as  
7 follows: 74-8746. (a) ~~Except as provided in subsection (b):~~

8 (†) No electronic gaming machines shall be operated at a parimutuel  
9 licensee location in ~~Sedgwick county unless, during the first full calendar~~  
10 ~~year and each year thereafter in which electronic gaming machines are~~  
11 ~~operated at such location, the parimutuel licensee conducts at such location~~  
12 ~~at least 100 live greyhound races each calendar week for the number of~~  
13 ~~weeks raced during calendar year 2003 with at least 13 live races~~  
14 ~~conducted each day for not less than five days per week the south central~~  
15 ~~Kansas gaming zone.~~

16 (⊖) (b) *Except as provided in subsection (c):* (1) No electronic gaming  
17 machines shall be operated at a parimutuel licensee location in Wyandotte  
18 county unless, during the first full calendar year and each year thereafter in  
19 which electronic gaming machines are operated at such location, the  
20 parimutuel licensee conducts live horse racing programs for at least 60  
21 days, with at least 10 live races conducted each program, and must offer  
22 and make a reasonable effort to conduct a minimum number of three live  
23 races restricted for quarter horses each day and seven live thoroughbred  
24 races each day, of which not less than two races each day shall be limited  
25 to registered Kansas-bred horses apportioned in the same ratio that live  
26 races are offered, except that the licensee shall not be required to conduct  
27 the second live race restricted to Kansas-bred horses unless there are at  
28 least seven qualified entries for such race, and with at least 100 live  
29 greyhound races each calendar week for at least the same number of weeks  
30 raced during calendar year 2003, with at least 13 live races conducted each  
31 day for not less than five days per week.

32 (⊕) (2) No electronic gaming machines shall be operated at a  
33 parimutuel licensee location in Crawford county unless, during the first  
34 full calendar year and each year thereafter in which electronic gaming  
35 machines are operated at such location, the parimutuel licensee conducts at  
36 such location at least 85 live greyhound races each calendar week for the  
37 number of weeks raced during calendar year 2003 in Sedgwick county,  
38 with at least 12 live races conducted each day for not less than five days  
39 per week.

40 (⊕) (3) If a parimutuel licensee has not held live races pursuant to a  
41 schedule approved by the Kansas racing and gaming commission in the  
42 preceding 12 months, the Kansas racing and gaming commission shall  
43 hold a hearing to determine the number of days of live racing required for

1 the remaining days of the first calendar year of operation to qualify for  
2 operation of electronic gaming machines. At such hearing, the commission  
3 shall receive testimony and evidence from affected breed groups, the  
4 licensee and others, as the Kansas racing and gaming commission deems  
5 appropriate concerning the schedule of live race days. The operation of  
6 electronic gaming machines shall not commence more than 90 days prior  
7 to the start of live racing at such facility.

8 ~~(b)~~ (c) The Kansas racing and gaming commission may not grant  
9 exceptions to the requirements of subsection ~~(a)~~ (b) for a parimutuel  
10 licensee conducting live racing unless such exception is in the form of an  
11 agreement which: (1) Is between the parimutuel licensee and the affected  
12 recognized greyhound or recognized horsemen's group, as defined in  
13 K.S.A. 74-8802, and amendments thereto; (2) has been approved by the  
14 appropriate official breed registering agencies; and (3) has been submitted  
15 to and approved by the commission. In the case of emergencies, weather  
16 related issues or immediate circumstances beyond the control of the  
17 licensee, the Kansas racing and gaming commission may grant an  
18 exception.

19 Sec. 4. K.S.A. 2013 Supp. 74-8747 is hereby amended to read as  
20 follows: 74-8747. (a) Net electronic gaming machine income from a  
21 racetrack gaming facility shall be distributed as follows:

22 (1) To the racetrack gaming facility manager, an amount equal to 25%  
23 of net electronic gaming machine income;

24 (2) 7% of net electronic gaming machine income shall be credited to  
25 the live horse racing purse supplement fund established by K.S.A. 2013  
26 Supp. 74-8767, and amendments thereto, except that the amount of net  
27 electronic gaming machine income credited to the fund during any fiscal  
28 year from electronic gaming machines at a racetrack gaming facility shall  
29 not exceed an amount equal to the average of \$3,750 per electronic gaming  
30 machine at each location and any moneys in excess of such amount shall  
31 be distributed between the state and the racetrack gaming facility manager  
32 in accordance with the racetrack gaming facility management contract;

33 (3) 7% of net electronic gaming machine income shall be credited to  
34 the live greyhound racing purse supplement fund established by K.S.A.  
35 2013 Supp. 74-8767, and amendments thereto, except that the amount of  
36 net electronic gaming machine income credited to the fund during any  
37 fiscal year from electronic gaming machines at a racetrack gaming facility  
38 shall not exceed an amount equal to the average of \$3,750 per electronic  
39 gaming machine at each location and any moneys in excess of such  
40 amount shall be distributed between the state and the racetrack gaming  
41 facility manager in accordance with the racetrack gaming facility  
42 management contract;

43 (4) (A) if the racetrack gaming facility is located in the northeast

1 Kansas gaming zone and is not located within a city, include a provision  
2 for payment of an amount equal to 3% of the ~~racetrack gaming facility~~  
3 ~~revenues net electronic gaming machine income~~ to the county in which the  
4 racetrack gaming facility is located; or (B) if the racetrack gaming facility  
5 is located in the northeast Kansas gaming zone and is located within a city,  
6 include provision for payment of an amount equal to 1.5% of the ~~racetrack~~  
7 ~~gaming facility revenues net electronic gaming machine income~~ to the city  
8 in which the racetrack gaming facility is located and an amount equal to  
9 1.5% of such revenues to the county in which such facility is located;

10 (5) (A) if the racetrack gaming facility is located in the southeast ~~or~~  
11 ~~south central~~ Kansas gaming zone and is not located within a city, include  
12 a provision for payment of an amount equal to 2% of the ~~racetrack gaming~~  
13 ~~facility revenues net electronic gaming machine income~~ to the county in  
14 which the racetrack gaming facility is located and an amount equal to 1%  
15 of such revenues to the other county in such zone; or (B) if the racetrack  
16 gaming facility is located in the southeast or south central Kansas gaming  
17 zone and is located within a city, provide for payment of an amount equal  
18 to 1% of the ~~racetrack gaming facility revenues net electronic gaming~~  
19 ~~machine income~~ to the city in which the racetrack gaming facility is  
20 located, an amount equal to 1% of such revenues to the county in which  
21 such facility is located and an amount equal to 1% of such revenues to the  
22 other county in such zone;

23 (6) 2% of net electronic gaming machine income shall be credited to  
24 the problem gambling and addictions grant fund established by K.S.A.  
25 2013 Supp. 79-4805, and amendments thereto;

26 (7) 1% of net electronic gaming machine income shall be credited to  
27 the Kansas horse fair racing benefit fund established by K.S.A. 74-8838,  
28 and amendments thereto;

29 (8) 40% of net electronic gaming machine income shall be credited to  
30 the expanded lottery act revenues fund; and

31 (9) 15% of electronic gaming machine income shall be used for  
32 gaming expenses, subject to agreement between the Kansas lottery and the  
33 racetrack gaming facility manager.

34 (b) A racetrack gaming facility management contract may include  
35 provisions for a parimutuel licensee or any other entity to pay the  
36 parimutuel licensee's expenses related to electronic gaming machines, as  
37 the executive director deems appropriate, subject to the requirements of  
38 subsection (a)(9).

39 Sec. 5. K.S.A. 2013 Supp. 74-8741, 74-8746 and 74-8747 are hereby  
40 repealed.

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