

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 61

By Committee on Federal and State Affairs

1-22

Proposed Amendment to SB61
Prepared by Mike Heim
Office of Revisor of Statutes
March 18, 2015

1 AN ACT concerning the Kansas lottery; amending K.S.A. 74-8704 and
2 74-8718 and K.S.A. 2014 Supp. 74-8702 and repealing the existing
3 sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 74-8702 is hereby amended to read as
7 follows: 74-8702. As used in the Kansas lottery act, unless the context
8 otherwise requires:

9 (a) "Ancillary lottery gaming facility operations" means additional
10 non-lottery facility game products and services not owned and operated by
11 the state which may be included in the overall development associated
12 with the lottery gaming facility. Such operations may include, but are not
13 limited to, restaurants, hotels, motels, museums or entertainment facilities.

14 (b) "Commission" means the Kansas lottery commission.

15 (c) "Electronic gaming machine" means any electronic,
16 electromechanical, video or computerized device, contrivance or machine
17 authorized by the Kansas lottery which, upon insertion of cash, tokens,
18 electronic cards or any consideration, is available to play, operate or
19 simulate the play of a game authorized by the Kansas lottery pursuant to
20 the Kansas expanded lottery act, including, but not limited to, bingo,
21 poker, blackjack, keno and slot machines, and which may deliver or entitle
22 the player operating the machine to receive cash, tokens, merchandise or
23 credits that may be redeemed for cash. Electronic gaming machines may
24 use bill validators and may be single-position reel-type, single or multi-
25 game video and single-position multi-game video electronic game,
26 including, but not limited to, poker, blackjack and slot machines.
27 Electronic gaming machines shall be directly linked to a central computer
28 at a location determined by the executive director for purposes of security,
29 monitoring and auditing.

30 (d) "Executive director" means the executive director of the Kansas
31 lottery.

32 (e) "Gaming equipment" means any electric, electronic, computerized
33 or electromechanical machine, mechanism, supply or device or any other
34 equipment, which is: (1) Unique to the Kansas lottery and used pursuant to
35 the Kansas lottery act; ~~and~~ (2) integral to the operation of an electronic
36 gaming machine or lottery facility game; and (3) affects the results of an

1 electronic gaming machine or lottery facility game by determining win or
2 loss.

3 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
4 which consists of Wyandotte county; (2) the southeast Kansas gaming
5 zone, which consists of Crawford and Cherokee counties; (3) the south
6 central Kansas gaming zone, which consists of Sedgewick and Sumner
7 counties; and (4) the southwest Kansas gaming zone, which consists of
8 Ford county.

9 (g) "Gray machine" means any mechanical, electro-mechanical or
10 electronic device, capable of being used for gambling, that is: (1) Not
11 authorized by the Kansas lottery; (2) not linked to a lottery central
12 computer system; (3) available to the public for play; or (4) capable of
13 simulating a game played on an electronic gaming machine or any similar
14 gambling game authorized pursuant to the Kansas expanded lottery act.

15 (h) "Kansas lottery" means the state agency created by this act to
16 operate a lottery or lotteries pursuant to this act.

17 (i) "Lottery" or "state lottery" means the lottery or lotteries operated
18 pursuant to this act.

19 (j) "Lottery facility games" means any electronic gaming machines
20 and any other games which, as of January 1, 2007, are authorized to be
21 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
22 9802, and amendments thereto, located within the boundaries of this state.

23 (k) "Lottery gaming enterprise" means an entertainment enterprise
24 which includes a lottery gaming facility authorized pursuant to the Kansas
25 expanded lottery act and ancillary lottery gaming facility operations that
26 have a coordinated business or marketing strategy. A lottery gaming
27 enterprise shall be designed to attract to its lottery gaming facility
28 consumers who reside outside the immediate area of such enterprise.

29 (l) "Lottery gaming facility" means that portion of a building used for
30 the purposes of operating, managing and maintaining lottery facility
31 games.

32 (m) "Lottery gaming facility expenses" means normal business
33 expenses, as defined in the lottery gaming facility management contract,
34 associated with the ownership and operation of a lottery gaming facility.

35 (n) "Lottery gaming facility management contract" means a contract,
36 subcontract or collateral agreement between the state and a lottery gaming
37 facility manager for the management of a lottery gaming facility, the
38 business of which is owned and operated by the Kansas lottery, negotiated
39 and signed by the executive director on behalf of the state.

40 (o) "Lottery gaming facility manager" means a corporation, limited
41 liability company, resident Kansas American Indian tribe or other business
42 entity authorized to construct and manage, or manage alone, pursuant to a
lottery gaming facility management contract with the Kansas lottery, and

on behalf of the state, a lottery gaming enterprise and lottery gaming facility.

(p) "Lottery gaming facility revenues" means the total revenues from lottery facility games at a lottery gaming facility after all related prizes are paid.

(q) (1) "Lottery machine" means any machine or device that allows a player to insert cash or other form of 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:

(A) Any machine or device in which the prize or evidence of a prize is determined by both chance and the player's or players' skill, including, but not limited to, any machine or device on which a lottery game or lottery games, such as poker or blackjack, are played; *or*

(B) any machine or device in which the prize or evidence of a prize is determined only by chance, including, but not limited to, any slot machine or bingo machine; *or*

~~(C) any lottery ticket vending machine, such as a keno ticket vending machine, pull-tab vending machine or an instant-bingo vending machine;~~

(C) any lottery ticket vending machine, such as a keno ticket vending machine, pull-tab vending machine or an instant-bingo vending machine

(2) "Lottery machine" shall not mean:

(A) Any food vending machine defined by K.S.A. 36-501, and amendments thereto;

(B) any nonprescription drug machine authorized under K.S.A. 65-650, and amendments thereto;

(C) any machine which dispenses only bottled or canned soft drinks, chewing gum, nuts or candies;

(D) any machine excluded from the definition of gambling devices under ~~subsection (b) of~~ K.S.A. 21-4302(d), prior to its repeal, or K.S.A. 2014 Supp. 21-6403, and amendments thereto; *or*

(E) any electronic gaming machine or lottery facility game operated in accordance with the provisions of the Kansas expanded lottery act; *or*

~~(F) any lottery ticket vending machine, such as a keno ticket vending machine, pull-tab ticket vending machine, an instant-bingo vending machine, an electronic ticket dispenser or similar device, operated by the Kansas lottery;~~

(f) "Lottery retailer" means any person with whom the Kansas lottery has contracted to sell lottery tickets or shares, or both, to the public.

(s) (1) "Major procurement" means any gaming product or service, including, but not limited to, facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies.

(2) "Major procurement" shall not mean any product, service or other

1 matter covered by or addressed in the Kansas expanded lottery act or a
2 lottery gaming facility management contract or racetrack gaming facility
3 management contract executed pursuant to the Kansas expanded lottery
4 act.

5 (i) "Net electronic gaming machine income" means all cash or other
6 consideration utilized to play an electronic gaming machine operated at a
7 racetrack gaming facility, less all cash or other consideration paid out to
8 winning players as prizes.

9 (u) "Organization licensee" has the meaning provided by K.S.A. 74-
10 8802, and amendments thereto.

11 (v) "Parimutuel licensee" means a facility owner licensee or facility
12 manager licensee under the Kansas parimutuel racing act.

13 (w) "Parimutuel licensee location" means a racetrack facility, as
14 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
15 by the parimutuel licensee. A parimutuel licensee location may include any
16 existing structure at such racetrack facility or any structure that may be
17 constructed on real estate where such racetrack facility is located.

18 (x) "Person" means any natural person, association, limited liability
19 company, corporation or partnership.

20 (y) "Prize" means any prize paid directly by the Kansas lottery
21 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
22 any rules and regulations adopted pursuant to either act. *No person under*
23 *18 years of age is eligible to claim a prize under the Kansas lottery act.*

24 (z) "Progressive electronic game" means a game played on an
25 electronic gaming machine for which the payoff increases uniformly as the
26 game is played and for which the jackpot, determined by application of a
27 formula to the income of independent, local or interlinked electronic
28 gaming machines, may be won.

29 (aa) "Racetrack gaming facility" means that portion of a parimutuel
30 licensee location where electronic gaming machines are operated,
31 managed and maintained.

32 (bb) "Racetrack gaming facility management contract" means an
33 agreement between the Kansas lottery and a racetrack gaming facility
34 manager, negotiated and signed by the executive director on behalf of the
35 state, for placement of electronic gaming machines owned and operated by
36 the state at a racetrack gaming facility.

37 (cc) "Racetrack gaming facility manager" means a parimutuel
38 licensee specifically certified by the Kansas lottery to become a certified
39 racetrack gaming facility manager and offer electronic gaming machines
40 for play at the racetrack gaming facility.

41 (dd) "Returned ticket" means any ticket which was transferred to a
42 lottery retailer, which was not sold by the lottery retailer and which was
returned to the Kansas lottery for refund by issuance of a credit or

otherwise.

(ee) "Share" means any intangible manifestation authorized by the Kansas lottery to prove participation in a lottery game, except as provided by the Kansas expanded lottery act.

(ff) "Ticket" means any tangible evidence issued by the Kansas lottery to prove participation in a lottery game other than a lottery facility game.

(gg) "Token" means a representative of value, of metal or other material, which is not legal tender, redeemable for cash only by the issuing lottery gaming facility manager or racetrack gaming facility manager and which is issued and sold by a lottery gaming facility manager or racetrack gaming facility manager for the sole purpose of playing an electronic gaming machine or lottery facility game.

(hh) "Vendor" means any person who has entered into a major procurement contract with the Kansas lottery.

(ii) "Video lottery machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game authorized by the commission, including, but not limited to, bingo, poker, black jack and keno, and which uses a video display and microprocessors and in which, by chance, the player may receive free games or credits that can be redeemed for cash.

Sec. 2. K.S.A. 74-8704 is hereby amended to read as follows: 74-8704. (a) The executive director shall have the power to:

(1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.

(2) Appoint, subject to the Kansas civil service act and within the limitations of appropriations therefor, all other employees of the Kansas lottery, which employees shall be in the classified service unless otherwise specifically provided by this act.

(3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the Kansas lottery, including, but not limited to, gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705, and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(5) Require lottery retailers to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of

1 lottery tickets or shares.

2 (6) Examine, or cause to be examined by any agent or representative
3 designated by the executive director, any books, papers, records or
4 memoranda of any lottery retailer for the purpose of ascertaining
5 compliance with the provisions of this act or rules and regulations adopted
6 hereunder.

7 (7) Issue subpoenas to compel access to or for the production of any
8 books, papers, records or memoranda in the custody or control of any
9 lottery retailer, or to compel the appearance of any lottery retailer or
10 employee of any lottery retailer, for the purpose of ascertaining
11 compliance with the provisions of this act or rules and regulations adopted
12 hereunder. Subpoenas issued under the provisions of this subsection may
13 be served upon natural persons and corporations in the manner provided in
14 K.S.A. 60-304, and amendments thereto, for the service of process by any
15 officer authorized to serve subpoenas in civil actions or by the executive
16 director or an agent or representative designated by the executive director.
17 In the case of the refusal of any person to comply with any such subpoena,
18 the executive director may make application to the district court of any
19 county where such books, papers, records, memoranda or person is located
20 for an order to comply.

21 (8) Administer oaths and take depositions to the same extent and
22 subject to the same limitations as would apply if the deposition were in aid
23 of a civil action in the district court.

24 (9) Require fingerprinting of employees and such other persons who
25 work in sensitive areas within the lottery as deemed appropriate by the
26 director. The director may submit such fingerprints to the Kansas bureau
27 of investigation and to the federal bureau of investigation for the purposes
28 of verifying the identity of such employees and persons and obtaining
29 records of their criminal arrests and convictions.

30 (b) The Kansas lottery shall not engage in on-site display advertising
31 or promotion of the lottery at any amateur athletic or sporting event
32 ~~including, but not limited to, amateur athletic sporting events at~~
33 ~~institutions under the jurisdiction and control of the state board of regents~~
34 ~~where the majority of participating athletes are under the age of 18,~~
35 ~~including, but not limited to, events under the jurisdiction and control of~~
36 ~~the Kansas state high school activities association.~~

37 Sec. 3. K.S.A. 74-8718 is hereby amended to read as follows: 74-
38 8718. (a) It is unlawful:

39 (1) To sell a lottery ticket or share at a price other than that fixed by
40 rules and regulations adopted pursuant to this act;

41 (2) for any person other than *the Kansas lottery* or a lottery retailer
authorized by the Kansas lottery to sell or resell any lottery ticket or share;

(3) to sell a lottery ticket or share to any person, knowing such person

1 to be under 18 years of age; or
2 (4) to sell a lottery ticket at retail by electronic mail, the internet or
3 telephone.
4 (b) (1) Violation of this ~~section~~ subsection (a) is a class A nonperson
5 misdemeanor upon conviction for a first offense; and
6 (2) violation of this section is a severity level 9, nonperson felony
7 upon conviction for a second or subsequent offense.
8 ~~(c) It is unlawful for a person under 18 years of age to purchase or~~
9 ~~attempt to purchase a lottery ticket.~~
10 ~~(d) Any person under 18 years of age who violates subsection (c) is a~~
11 ~~juvenile offender under the revised Kansas juvenile justice code. Upon~~
12 ~~adjudication thereof and as a condition of disposition, the court shall~~
13 ~~require the offender to pay a fine of not less than \$200 nor more than~~
14 ~~\$500. In addition, the court may order the offender to perform 40 hours of~~
15 ~~public service.~~
16 Sec. 4. K.S.A. 74-8704 and 74-8718 and K.S.A. 2014 Supp. 74-8702
17 are hereby repealed.
18 Sec. 5. This act shall take effect and be in force from and after its
19 publication in the statute book.