

HOUSE BILL No. 2545

By Committee on Federal and State Affairs

1-25

1 AN ACT concerning gaming; relating to the Kansas expanded lottery act;
2 relating to the state debtor setoff program; relating to horse and
3 greyhound racing; amending K.S.A. 74-8802 and 74-8836 and K.S.A.
4 2017 Supp. 74-8702, 74-8741, 74-8743, 74-8744, 74-8746, 74-8747,
5 74-8766, 74-8813, 74-8814 and 75-6204 and repealing the existing
6 sections.

7
8 WHEREAS, In light of the historic support for the availability of horse
9 and dog racing in the state of Kansas, the long history and heritage of the
10 greyhound and horse industry in the state and the support for the
11 availability of electronic gaming machines at race facilities, this act is
12 aimed at resurrecting these well-known and existing facilities; and

13 WHEREAS, Allowing horse and dog racetracks to be economically
14 viable will improve the Kansas economy, promote tourism and protect the
15 state's reputation in the greyhound and horse industry, which has existed in
16 Kansas long before the advent of casinos and electronic gaming; and

17 WHEREAS, There are positive economic and agribusiness benefits
18 derived from revitalizing our existing racetracks, which have been idle
19 since the passage of 2007 Senate Bill No. 66 due to the inability to make a
20 sustainable profit, including farms and breeding operations; and

21 WHEREAS, It has been more than 10 years since the vote to approve
22 and place electronic gaming machines at Wichita Greyhound Park in
23 Sedgwick County; and

24 WHEREAS, An economic study has estimated that passage of this act
25 and the resulting capital investments in the racetracks will result in a
26 significant number of new jobs and a significant increase in state and local
27 tax revenue without the need for economic development incentives; and

28 WHEREAS, That economic study has also estimated that the passage
29 of this act will channel millions of dollars annually to farmers and
30 ranchers, who have been struggling in the current farm and ranch
31 economy, and will benefit greyhound and horse breeders and the support
32 services employed by these breeders; and

33 WHEREAS, The existence of current lottery gaming facility
34 management contracts is hereby acknowledged, and it is the intent of the
35 legislature to protect the state from financial exposure in the event lottery
36 gaming facility managers become entitled to repayment of privilege fees

1 paid to the state; and

2 WHEREAS, The current tax structure for racetracks needs to be
3 aligned with that of the casinos in order to allow the racetracks to open and
4 operate as intended.

5 Now, therefore:

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Prior to any lottery gaming facility manager,
8 racetrack gaming facility manager or facility owner licensee paying any
9 prize requiring the completion of an internal revenue service form W-2G,
10 the manager or licensee shall cause the person winning the prize to be
11 matched against the state debtor files maintained by the director of
12 accounts and reports as prescribed under K.S.A. 75-6201 et seq., and
13 amendments thereto. If such person is listed in the state debtor files, the
14 prize shall be withheld by the lottery gaming facility manager, racetrack
15 gaming facility manager or the facility owner licensee to the extent of such
16 person's debt as set forth in the state debtor files.

17 (b) The lottery gaming facility manager, racetrack gaming facility
18 manager and facility owner licensee shall not be subject to any civil,
19 criminal or administrative liability for any actions taken pursuant to this
20 section, unless such actions are intentional, malicious or wanton by such
21 lottery gaming facility manager, racetrack gaming facility manager, facility
22 owner licensee or employees or agents thereof. The sole remedy at law for
23 any person who claims that a prize was wrongfully withheld pursuant to
24 this section shall be to submit an appeal to the department of
25 administration pursuant to K.S.A. 75-6201 et seq., and amendments
26 thereto.

27 (c) Moneys withheld, based on the state debtor files, shall be remitted
28 to the state treasurer in accordance with K.S.A. 75-4215, and amendments
29 thereto. The state treasurer shall deposit the entire amount in the state
30 treasury and credit it to the department of administration's setoff clearing
31 fund.

32 (d) As used in this section:

33 (1) "Facility owner licensee" shall have the same meaning as that
34 term is defined in K.S.A. 74-8802, and amendments thereto.

35 (2) "Racetrack gaming facility manager" shall have the same meaning
36 as that term is defined in K.S.A. 74-8702, and amendments thereto.

37 (3) "Lottery gaming facility manager" shall have the same meaning as
38 that term is defined in K.S.A. 74-8702, and amendments thereto.

39 (4) "Prize" shall have the same meaning as that term is defined in
40 K.S.A. 74-8702, and amendments thereto, and any winnings from
41 parimutuel wagering as provided by the Kansas parimutuel racing act in
42 K.S.A. 74-8801 et seq., and amendments thereto.

43 (e) Nothing in this section shall apply to Native American tribal

1 gaming facilities.

2 (f) This section shall be a part of and supplemental to the state debtor
3 setoff program.

4 New Sec. 2. (a) Notwithstanding the provisions of K.S.A. 2017 Supp.
5 74-8733, and amendments thereto, the attorney general may file an action
6 in quo warranto in the supreme court within 90 days from the effective
7 date of this act on the question of the authority of a public official to act in
8 accordance with the provisions of K.S.A. 2017 Supp. 74-8743, and
9 amendments thereto. Such action may not be filed by any party except the
10 attorney general and shall only be filed in the supreme court.

11 (b) No action against the state of Kansas for specific performance,
12 anticipatory breach or breach of contract, the basis of which is that a
13 racetrack gaming facility management contract violates the provisions of
14 K.S.A. 2017 Supp. 74-8734(h)(19) or 74-8741(c)(4), and amendments
15 thereto, or that such racetrack gaming facility management contract creates
16 a material breach of the lottery gaming facility manager's gaming facility
17 management contract, shall be deemed to have accrued until such date as
18 the Kansas lottery enters into a racetrack gaming facility management
19 contract for the placement of electronic gaming machines at a parimutuel
20 licensee location in any Kansas gaming zone, or such date a final order is
21 issued in any action brought by the attorney general pursuant to subsection
22 (a), whichever occurs later. Any such action shall be commenced in the
23 district court of Shawnee county within 60 days from the date the cause of
24 action accrued.

25 (c) No claim for equitable relief, including injunctive relief, may be
26 brought in any action filed pursuant to this subsection except by the
27 attorney general in an action brought under subsection (a).

28 (d) No claim arising from the execution of a racetrack gaming facility
29 management contract may be brought except by the lottery gaming facility
30 manager for the lottery gaming facility located in the same Kansas gaming
31 zone as the racetrack gaming facility that is the subject of such racetrack
32 gaming facility management contract. No claim arising from the operation
33 of K.S.A. 2017 Supp. 74-8743, and amendments thereto, may be brought
34 except by the lottery gaming facility manager for the lottery gaming
35 facility located in the south central Kansas gaming zone.

36 (e) The monetary damages that may be awarded in any action brought
37 pursuant to this section shall not exceed an amount equal to the privilege
38 fee paid by the lottery gaming facility manager plus accrued interest from
39 the date such action accrues as specified in subsection (b).

40 (f) If an action is commenced in accordance with subsection (b),
41 within 60 days following the filing of such action, the racetrack gaming
42 facility manager that is a party to such racetrack gaming facility
43 management contract, or a third party on behalf of the racetrack gaming

1 facility manager, shall submit a letter of credit in a total amount equal to
2 the monetary damages that may be awarded in such action as determined
3 by the executive director, subject to the limitations of subsection (e). This
4 requirement shall be included in each racetrack gaming facility
5 management contract, so that the failure to submit a letter of credit in a
6 timely manner shall constitute a material breach of the racetrack gaming
7 facility management contract and shall be cause for termination of such
8 contract. The letter of credit shall name the Kansas lottery as the
9 beneficiary.

10 (g) (1) If a court of competent jurisdiction, in any action commenced
11 in accordance with subsection (b), determines pursuant to a final, non-
12 appealable order that the racetrack gaming facility management contract
13 does not violate the provisions of K.S.A. 2017 Supp. 74-8734(h)(19) or
14 74-8741(c)(4), and amendments thereto, or create a material breach of any
15 lottery gaming facility management contract entered into with the Kansas
16 lottery by any of the lottery gaming facility managers that are a party to
17 such action, the executive director shall provide a letter of cancellation to
18 the racetrack gaming facility canceling the letter of credit.

19 (2) If a court of competent jurisdiction, in any action commenced in
20 accordance with subsection (b), determines in a final, non-appealable order
21 that the racetrack gaming management contract violates the provisions of
22 K.S.A. 2017 Supp. 74-8734(h)(19) or 74-8741(c)(4), and amendments
23 thereto, or creates a material breach of any lottery gaming facility
24 management contract entered into with the Kansas lottery by any of the
25 lottery gaming facility managers that are a party to such action, the
26 executive director shall present the letter of credit for payment in an
27 amount equal to the monetary damages awarded to any lottery gaming
28 facility manager in whose favor final judgment has been rendered in such
29 action. The executive director shall remit all moneys from such payment to
30 the state treasurer. Upon receipt of such remittance, the state treasurer shall
31 deposit the entire amount in the state treasury to the credit of the privilege
32 fee repayment fund.

33 (h) In the event the executive director presents the letter of credit for
34 payment in accordance with subsection (g), and the moneys from such
35 payment are remitted to the state treasurer for repayment to a lottery
36 gaming facility manager pursuant to subsection (g)(2), the Kansas lottery
37 shall thereafter reimburse an equal amount to the racetrack gaming facility
38 manager. Such reimbursement payments shall be paid monthly from the
39 racetrack gaming facility manager repayment fund. The amount of each
40 monthly reimbursement payment shall be a percentage of the funds in the
41 expanded lottery act revenue fund that were received by the Kansas lottery
42 pursuant to K.S.A. 2017 Supp. 74-8747(a)(1), and amendments thereto, as
43 hereinafter provided. Such percentage shall be agreed to by the executive

1 director and the racetrack gaming facility manager in each racetrack
2 gaming facility management contract, except that such percentage shall
3 not be less than 50% of the funds in the expanded lottery act revenue fund
4 that were received by the Kansas lottery pursuant to K.S.A. 2017 Supp.
5 74-8747(a)(1), and amendments thereto. The executive director shall
6 certify the amount to be paid under this subsection to the director of
7 accounts and reports. Upon receipt of such certification, the director of
8 accounts and reports shall transfer such certified amount from the
9 expanded lottery act revenue fund to the racetrack gaming facility manager
10 repayment fund. Transfers from the expanded lottery act revenue fund
11 under this subsection shall only be made from those funds held in the
12 expanded lottery act revenue fund that were received by the Kansas lottery
13 pursuant to K.S.A. 2017 Supp. 74-8747(a)(1), and amendments thereto, as
14 net electronic gaming machine income from the racetrack gaming facility
15 to which the racetrack gaming facility management contract applies. All
16 funds transferred to the racetrack gaming facility manager repayment fund
17 pursuant to this subsection shall be expended by the Kansas lottery for the
18 purposes of this subsection.

19 (i) (1) The privilege fee repayment fund is hereby created in the state
20 treasury and shall be administered by the Kansas lottery. The privilege fee
21 repayment fund shall consist of those moneys credited to the privilege fee
22 repayment fund pursuant to subsection (g)(2). All expenditures from the
23 privilege fee repayment fund shall be for the repayment of privilege fees,
24 including accrued interest thereon, pursuant to subsection (g)(2), and shall
25 be made in accordance with appropriation acts upon warrants of the
26 director of accounts and reports issued pursuant to vouchers approved by
27 the executive director.

28 (2) The racetrack gaming facility manager repayment fund is hereby
29 created in the state treasury and shall be administered by the Kansas
30 lottery. The racetrack gaming facility manager repayment fund shall
31 consist of those moneys credited to the racetrack gaming facility manager
32 repayment fund pursuant to subsection (h). All expenditures from the
33 racetrack gaming facility manager repayment fund shall be for
34 reimbursement to the racetrack gaming facility manager of the moneys
35 remitted to the state treasurer for payment to a lottery gaming facility
36 manager pursuant to subsection (g)(2), and shall be made in accordance
37 with appropriation acts upon warrants of the director of accounts and
38 reports issued pursuant to vouchers approved by the executive director.

39 (j) For purposes of this section, the Kansas expanded lottery act and
40 the Kansas parimutuel racing act, a racetrack gaming facility manager, as
41 defined in K.S.A. 74-8702, and amendments thereto, may also be a facility
42 owner licensee, as defined in K.S.A. 74-8802, and amendments thereto.

43 (k) The provisions of this section shall be a part of and supplemental

1 to the Kansas expanded lottery act.

2 New Sec. 3. On or before December 1, 2018, and each December 1
3 thereafter, the official breed registering agencies for both horse and
4 greyhound breeds, as designated by the Kansas racing and gaming
5 commission in K.S.A. 74-8830 and 74-8832, and amendments thereto,
6 shall make recommendations to the Kansas racing and gaming commission
7 for implementation of programs that will maximize the benefit to
8 economic development in rural Kansas.

9 New Sec. 4. There is hereby established in the state treasury the
10 Kansas horse council fund, which shall be administered by the Kansas
11 racing and gaming commission. All expenditures from this fund shall be
12 made in accordance with appropriation acts upon warrants of the director
13 of accounts and reports issued pursuant to vouchers approved by the
14 executive director of the Kansas racing and gaming commission. The
15 moneys credited to this fund shall be used for the development, promotion
16 and representation of the equine industry in Kansas and shall be distributed
17 to the Kansas horse council by contract with the Kansas racing and gaming
18 commission for these purposes.

19 Sec. 5. K.S.A. 2017 Supp. 74-8702 is hereby amended to read as
20 follows: 74-8702. As used in the Kansas lottery act, unless the context
21 otherwise requires:

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

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

28 (c) "Electronic gaming machine" means any electronic,
29 electromechanical, video or computerized device, contrivance or machine
30 authorized by the Kansas lottery which, upon insertion of cash, tokens,
31 electronic cards or any consideration, is available to play, operate or
32 simulate the play of a game authorized by the Kansas lottery pursuant to
33 the Kansas expanded lottery act, including, but not limited to, bingo,
34 poker, blackjack, keno and slot machines, and which may deliver or entitle
35 the player operating the machine to receive cash, tokens, merchandise or
36 credits that may be redeemed for cash. Electronic gaming machines may
37 use bill validators and may be single-position reel-type, single or multi-
38 game video and single-position multi-game video electronic game,
39 including, but not limited to, poker, blackjack and slot machines.
40 Electronic gaming machines shall be directly linked to a central computer
41 at a location determined by the executive director for purposes of security,
42 monitoring and auditing.

43 (d) "Executive director" means the executive director of the Kansas

1 lottery.

2 (e) "Gaming equipment" means any electric, electronic, computerized
3 or electromechanical machine, mechanism, supply or device or any other
4 equipment, which is: (1) Unique to the Kansas lottery and used pursuant to
5 the Kansas lottery act; ~~and~~ (2) integral to the operation of an electronic
6 gaming machine or lottery facility game; and (3) affects the results of an
7 electronic gaming machine or lottery facility game by determining win or
8 loss.

9 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
10 which consists of Wyandotte county; (2) the southeast Kansas gaming
11 zone, which consists of Crawford and Cherokee counties; (3) the south
12 central Kansas gaming zone, which consists of Sedgwick and Sumner
13 counties; and (4) the southwest Kansas gaming zone, which consists of
14 Ford county.

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

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

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

25 (j) "Lottery facility games" means any electronic gaming machines
26 and any other games which, as of January 1, 2007, are authorized to be
27 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
28 9802, and amendments thereto, located within the boundaries of this state.

29 (k) "Lottery gaming enterprise" means an entertainment enterprise
30 which includes a lottery gaming facility authorized pursuant to the Kansas
31 expanded lottery act and ancillary lottery gaming facility operations that
32 have a coordinated business or marketing strategy. A lottery gaming
33 enterprise shall be designed to attract to its lottery gaming facility
34 consumers who reside outside the immediate area of such enterprise.

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

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

41 (n) "Lottery gaming facility management contract" means a contract,
42 subcontract or collateral agreement between the state and a lottery gaming
43 facility manager for the management of a lottery gaming facility, the

1 business of which is owned and operated by the Kansas lottery, negotiated
2 and signed by the executive director on behalf of the state.

3 (o) "Lottery gaming facility manager" means a corporation, limited
4 liability company, resident Kansas American Indian tribe or other business
5 entity authorized to construct and manage, or manage alone, pursuant to a
6 lottery gaming facility management contract with the Kansas lottery, and
7 on behalf of the state, a lottery gaming enterprise and lottery gaming
8 facility.

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

12 (q) (1) "Lottery machine" means any machine or device that allows a
13 player to insert cash or other form of consideration and may deliver as the
14 result of an element of chance, regardless of the skill required by the
15 player, a prize or evidence of a prize, including, but not limited to:

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

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

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

25 (2) "Lottery machine" shall not mean:

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

28 (B) any nonprescription drug machine authorized under K.S.A. 65-
29 650, and amendments thereto;

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

32 (D) any machine excluded from the definition of gambling devices
33 under subsection (d) of K.S.A. 21-4302, prior to its repeal, or K.S.A. 2017
34 Supp. 21-6403, and amendments thereto; or

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

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

39 (s) (1) "Major procurement" means any gaming product or service,
40 including, but not limited to, facilities, advertising and promotional
41 services, annuity contracts, prize payment agreements, consulting services,
42 equipment, tickets and other products and services unique to the Kansas
43 lottery, but not including materials, supplies, equipment and services

1 common to the ordinary operations of state agencies.

2 (2) "Major procurement" shall not mean any product, service or other
3 matter covered by or addressed in the Kansas expanded lottery act or a
4 lottery gaming facility management contract or racetrack gaming facility
5 management contract executed pursuant to the Kansas expanded lottery
6 act.

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

11 (u) "Organization licensee" has the meaning provided by K.S.A. 74-
12 8802, and amendments thereto.

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

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

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

22 (y) "Prize" means any prize paid directly by the Kansas lottery
23 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
24 any rules and regulations adopted pursuant to either act.

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

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

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

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

42 (dd) "Returned ticket" means any ticket which was transferred to a
43 lottery retailer, which was not sold by the lottery retailer and which was

1 returned to the Kansas lottery for refund by issuance of a credit or
2 otherwise.

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

6 (ff) *"Similar gaming facility" means that portion of a building used*
7 *for the purposes of operating, managing and maintaining lottery facility*
8 *games and other games authorized to be conducted or operated at tribal*
9 *gaming facilities, as defined in K.S.A. 74-8902, and amendments thereto,*
10 *located within the boundaries of this state, except the term "similar*
11 *gaming facility" shall not include any facility authorized to operate,*
12 *manage and maintain only electronic gaming machines.*

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

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

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

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

30 Sec. 6. K.S.A. 2017 Supp. 74-8741 is hereby amended to read as
31 follows: 74-8741. (a) The executive director of the Kansas lottery shall
32 negotiate a racetrack gaming facility management contract to place
33 electronic gaming machines at one parimutuel licensee location in each
34 gaming zone except the southwest Kansas gaming zone.

35 (b) To be eligible to enter into a racetrack gaming facility
36 management contract the prospective racetrack gaming facility manager
37 shall, at a minimum:

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

41 (2) be current in filing all applicable tax returns and in payment of all
42 taxes, interest and penalties owed to the state of Kansas and any taxing
43 subdivision where such prospective manager is located in the state of

1 Kansas, excluding items under formal appeal pursuant to applicable
2 statutes.

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

4 (1) The term of the contract;

5 (2) provisions for the Kansas racing and gaming commission to
6 oversee all racetrack gaming facility operations, including, but not limited to:
7 Oversight of internal controls; oversight of security of facilities;
8 performance of background investigations, determination of qualifications
9 and any required certification or licensing of officers, directors, board
10 members, employees, contractors and agents of the racetrack gaming
11 facility manager; auditing of net electronic gaming machine income and
12 maintenance of the integrity of electronic gaming machine operations;

13 (3) provisions for the racetrack gaming facility manager to pay the
14 costs of oversight and regulation of the racetrack gaming facility manager
15 under this act and such manager's racetrack gaming facility operations by
16 the *Kansas lottery and the Kansas racing and gaming commission*; ~~and~~

17 (4) enforceable provisions: (A) Prohibiting the state, until July 1,
18 2032, from: (i) Entering into management contracts for more than ~~three~~
19 *four* lottery gaming facilities or similar gaming facilities, one to be located
20 in the northeast Kansas gaming zone, one to be located in the south central
21 Kansas gaming zone ~~and~~, one to be located in the southeast Kansas
22 gaming zone; *and one to be located in the southwest Kansas gaming zone*;
23 (ii) designating additional areas of the state where operation of lottery
24 gaming facilities or similar gaming facilities would be authorized; or (iii)
25 operating an aggregate of more than 2,800 electronic gaming machines at
26 all parimutuel licensee locations; and (B) requiring the state to repay to the
27 racetrack gaming facility manager an amount equal to the privilege fee
28 paid by such racetrack gaming facility manager, plus interest on such
29 amount, compounded annually at the rate of 10%, if the state violates the
30 prohibition provision described in (A); *and*

31 (5) *provisions for the distribution of the net electronic gaming
32 machine income from the racetrack gaming facility, which shall be in
33 accordance with K.S.A. 2017 Supp. 74-8747, and amendments thereto.*

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

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

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

42 (3) eligibility requirements for employees, contractors or agents of a
43 racetrack gaming facility manager who will have responsibility for or

1 involvement with electronic gaming machines or for the handling of cash
2 or tokens;

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

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

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

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

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

16 (f) A racetrack gaming facility management contract shall not
17 constitute property, nor shall it be subject to attachment, garnishment or
18 execution, nor shall it be alienable or transferable, except upon approval
19 by the executive director, nor shall it be subject to being encumbered or
20 hypothecated.

21 Sec. 7. K.S.A. 2017 Supp. 74-8743 is hereby amended to read as
22 follows: 74-8743. (a) The board of county commissioners of each county
23 where there is a parimutuel licensee location by resolution ~~shall~~ *may*
24 submit to the qualified voters of the county a proposition to permit the
25 placement of electronic gaming machines in the county as provided in this
26 section, *or, upon presentation of a valid petition signed by not fewer than*
27 *5,000 qualified voters of the county, shall submit such proposition to the*
28 *qualified voters of the county.* ~~The proposition shall be submitted to the~~
29 ~~voters at a special election called by the board of county commissioners~~
30 ~~for that purpose and held not more than 180 days after the effective date of~~
31 ~~this act.~~

32 (b) Upon the adoption of a resolution calling for an election pursuant
33 to this section, *or the submission of a petition, which the county election*
34 *officer has determined has been signed by a sufficient number of qualified*
35 *voters of the county,* the county election officer shall cause the following
36 proposition to be placed on the ballot at the election called for that
37 purpose: "Shall the *operation of electronic gaming machines by the Kansas*
38 *Lottery be authorized to place electronic gaming machines in _____*
39 *county at Wichita Greyhound Park in Sedgwick county?" *The proposition**
40 *shall be submitted to the voters at the next primary or general election, or*
41 *at a special election called by the board of county commissioners for that*
42 *purpose. In no event shall the election be held more than 120 days after*
43 *the petition, if any, is deemed valid.*

1 (c) If a majority of the votes cast and counted at such election is in
2 favor of approving the placement of electronic gaming machines in the
3 county, the Kansas lottery may place and operate electronic gaming
4 machines at a parimutuel licensee location in the county, subject to the
5 provisions of this act. If a majority of the votes cast and counted at an
6 election under this section is against permitting placement of electronic
7 gaming machines in the county, the Kansas lottery shall not place or
8 operate electronic gaming machines at a parimutuel licensee location in
9 the county. The county election officer shall transmit a copy of the
10 certification of the results of the election to the executive director.

11 (d) The election provided for by this section shall be conducted, and
12 the votes counted and canvassed, in the manner provided by law for
13 question submitted elections of the county.

14 ~~(e) The lottery commission may waive the requirement that an~~
15 ~~election be held pursuant to this section if the lottery commission~~
16 ~~determines that after December 31, 2004, and before the effective date of~~
17 ~~this act, the county has held an election of qualified voters pursuant to the~~
18 ~~county's home rule authority: (1) At which the ballot question was in~~
19 ~~substantial compliance with the requirements of this section; (2) which~~
20 ~~was administered by the county election officer in a manner consistent~~
21 ~~with the requirements of state election law; and (3) at which a majority of~~
22 ~~the votes cast and counted was in favor of the proposition.~~

23 (f)—The question of the placement of electronic gaming machines in a
24 county may be submitted at the same election as the question of operation
25 of a lottery gaming facility in the county under K.S.A. 2017 Supp. 74-
26 8737, and amendments thereto.

27 Sec. 8. K.S.A. 2017 Supp. 74-8744 is hereby amended to read as
28 follows: 74-8744. (a) In accordance with rules and regulations adopted by
29 the commission, the executive director shall have general responsibility for
30 the implementation and administration of the provisions of this act relating
31 to racetrack gaming facility operations, including the responsibility to:

32 (1) Certify net electronic gaming machine income by inspecting
33 records, conducting audits, having agents of the Kansas lottery on site or
34 by any other reasonable means; and

35 (2) assist the commission in the promulgation of rules and regulations
36 concerning the operation of racetrack gaming facilities, which rules and
37 regulations shall include, without limitation, the following:

38 (A) The number of electronic gaming machines allocated for
39 placement at each racetrack gaming facility, subject to the provisions of
40 subsection (b);

41 (B) standards for advertising, marketing and promotional materials
42 used by racetrack gaming facility managers;

43 (C) the kind, type, number and location of electronic gaming

1 machines at any racetrack gaming facility; and

2 (D) rules and regulations and procedures for the accounting and
3 reporting of the payments required from racetrack gaming facility
4 managers under K.S.A. 2017 Supp. 74-8766, and amendments thereto,
5 including the calculations required for such payments.

6 (b) Rules and regulations establishing the minimum and maximum
7 number of electronic gaming machines allocated for placement at each
8 racetrack gaming facility shall be adopted and published not later than 120
9 days after the effective date of this act. Such rules and regulations shall be
10 subject to the following:

11 (1) At least ~~600~~ 400 electronic gaming machines shall be allocated to
12 and placed at each racetrack gaming facility.

13 (2) The total number of electronic gaming machines allocated to and
14 placed at all racetrack gaming facilities in the state shall not exceed 2,800.
15 ~~Until lottery gaming facility management contracts for lottery gaming~~
16 ~~facilities in all gaming zones become binding, the total number of~~
17 ~~electronic gaming machines placed at all racetrack gaming facilities shall~~
18 ~~not exceed 2,200. When lottery gaming facility management contracts for~~
19 ~~lottery gaming facilities in all gaming zones have become binding, the~~
20 ~~lottery commission shall take privilege fee bids from the lottery gaming~~
21 ~~facility manager and racetrack gaming facility manager in each gaming~~
22 ~~zone for the remaining electronic gaming machines allocated to but not yet~~
23 ~~placed at the racetrack gaming facility in such zone. The minimum bid~~
24 ~~shall be a privilege fee of \$2,500 per electronic gaming machine. If the~~
25 ~~racetrack gaming facility manager submits the highest bid, the lottery~~
26 ~~commission shall place the remaining electronic gaming machines at the~~
27 ~~racetrack gaming facility. If the lottery gaming facility manager submits~~
28 ~~the highest bid, the commission shall not place any additional electronic~~
29 ~~gaming machines at the racetrack gaming facility.~~

30 (3) ~~In addition to any privilege fee paid pursuant to paragraph (2),~~
31 Each racetrack gaming facility manager shall pay a privilege fee of \$2,500
32 for each electronic gaming machine placed at the racetrack gaming facility
33 for which a privilege fee is not paid pursuant to paragraph (2).

34 (4) The racetrack gaming facility manager shall pay the privilege fees
35 provided by this subsection to the executive director, who shall remit the
36 entire amount to the state treasurer in accordance with K.S.A. 75-4215,
37 and amendments thereto. Upon receipt of the remittance, the state treasurer
38 shall deposit the entire amount in the state treasury and credit it to the
39 expanded lottery act revenues fund.

40 Sec. 9. K.S.A. 2017 Supp. 74-8746 is hereby amended to read as
41 follows: 74-8746. (a) Except as provided in subsection (b):

42 (1) No electronic gaming machines shall be operated at a parimutuel
43 licensee location in Sedgwick county unless, during the first full calendar

1 year and each year thereafter in which electronic gaming machines are
2 operated at such location, the parimutuel licensee conducts at such location
3 at least 100 live greyhound races each calendar week for ~~the number of~~
4 ~~weeks raced during calendar year 2003~~ at least 50 weeks with at least 13
5 live races conducted each day for not less than five days per week.

6 (2) No electronic gaming machines shall be operated at a parimutuel
7 licensee location in Wyandotte county unless, during the first full calendar
8 year and each year thereafter in which electronic gaming machines are
9 operated at such location, the parimutuel licensee conducts live horse
10 racing programs for at least 60 days, with at least 10 live races conducted
11 each program, and must offer and make a reasonable effort to conduct a
12 minimum number of three live races restricted for quarter horses each day
13 and seven live thoroughbred races each day, of which not less than two
14 races each day shall be limited to registered Kansas-bred horses
15 apportioned in the same ratio that live races are offered, except that the
16 licensee shall not be required to conduct the second live race restricted to
17 Kansas-bred horses unless there are at least ~~seven~~ five qualified entries for
18 such race, ~~and with at least 100 live greyhound races each calendar week~~
19 ~~for at least the same number of weeks raced during calendar year 2003,~~
20 ~~with at least 13 live races conducted each day for not less than five days~~
21 ~~per week.~~

22 (3) No electronic gaming machines shall be operated at a parimutuel
23 licensee location in Crawford county unless, during the first full calendar
24 year and each year thereafter in which electronic gaming machines are
25 operated at such location, the parimutuel licensee conducts at such location
26 at least 85 live greyhound races each calendar week for ~~the number of~~
27 ~~weeks raced during calendar year 2003 in Sedgwick county,~~ at least 25
28 weeks with at least 12 live races conducted each day for not less than five
29 days per week.

30 (4) If a parimutuel licensee has not held live races pursuant to a
31 schedule approved by the Kansas racing and gaming commission in the
32 preceding 12 months, the Kansas racing and gaming commission shall
33 hold a hearing to determine the number of days of live racing required for
34 the remaining days of the first calendar year of operation to qualify for
35 operation of electronic gaming machines. At such hearing, the commission
36 shall receive testimony and evidence from affected breed groups, the
37 licensee and others, as the Kansas racing and gaming commission deems
38 appropriate concerning the schedule of live race days. ~~The operation of~~
39 ~~electronic gaming machines shall not commence more than 90 days prior~~
40 ~~to the start of live racing at such facility.~~

41 (b) The Kansas racing and gaming commission may not grant
42 exceptions to the requirements of subsection (a) for a parimutuel licensee
43 conducting live racing unless such exception is in the form of an

1 agreement which: (1) Is between the parimutuel licensee and the affected
2 recognized greyhound or recognized horsemen's group, as defined in
3 K.S.A. 74-8802, and amendments thereto; (2) has been approved by the
4 appropriate official breed registering agencies; and (3) has been submitted
5 to and approved by the commission. In the case of emergencies, weather
6 related issues or immediate circumstances beyond the control of the
7 licensee, the Kansas racing and gaming commission may grant an
8 exception.

9 Sec. 10. K.S.A. 2017 Supp. 74-8747 is hereby amended to read as
10 follows: 74-8747. (a) *A racetrack gaming facility management contract*
11 *shall include provisions for net electronic gaming machine income from a*
12 *racetrack gaming facility shall to be distributed as follows:*

13 (1) ~~To the racetrack gaming facility manager,~~ An amount equal to
14 ~~25%~~ 22% of net electronic gaming machine income *shall be credited to*
15 *the expanded lottery act revenues fund;*

16 (2) *an amount equal to 7% of net electronic gaming machine income*
17 *derived from electronic gaming machines located at racetrack gaming*
18 *facilities licensed to conduct live horse races during the first and second*
19 *years of operation, 10% of net electronic gaming machine income derived*
20 *from electronic gaming machines located at such racetrack gaming*
21 *facilities during the third and fourth years of operation, and 14% of net*
22 *electronic gaming machine income derived from electronic gaming*
23 *machines located at such racetrack gaming facilities during the fifth and*
24 *subsequent years of operation shall be credited to the live horse racing*
25 *purse supplement fund established by K.S.A. 2017 Supp. 74-8767, and*
26 *amendments thereto, except that the amount of net electronic gaming*
27 *machine income credited to the fund during any fiscal year from electronic*
28 *gaming machines at a racetrack gaming facility shall not exceed an amount*
29 *equal to the average of \$3,750 per electronic gaming machine at each*
30 *location and any moneys in excess of such amount shall be distributed*
31 *between the state and the racetrack gaming facility manager in accordance*
32 *with the racetrack gaming facility management contract;*

33 (3) *an amount equal to 7% of net electronic gaming machine income*
34 *derived from electronic gaming machines located at racetrack gaming*
35 *facilities licensed to conduct live greyhound races shall be credited to the*
36 *live greyhound racing purse supplement fund established by K.S.A. 2017*
37 *Supp. 74-8767, and amendments thereto, except that the amount of net*
38 *electronic gaming machine income credited to the fund during any fiscal*
39 *year from electronic gaming machines at a racetrack gaming facility shall*
40 *not exceed an amount equal to the average of \$3,750 per electronic gaming*
41 *machine at each location and any moneys in excess of such amount shall*
42 *be distributed between the state and the racetrack gaming facility manager*
43 *in accordance with the racetrack gaming facility management contract;*

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

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

29 (6) (A) *if the racetrack gaming facility is located in the southeast*
30 *Kansas gaming zone and is not located within a city, an amount equal to*
31 *2% of net electronic gaming machine income shall be paid to the county in*
32 *which the racetrack gaming facility is located, and an amount equal to 1%*
33 *of net electronic gaming machine income shall be paid to the other county*
34 *in such zone; or*

35 (B) *if the racetrack gaming facility is located in the southeast Kansas*
36 *gaming zone and is located within a city, an amount equal to 1% of net*
37 *electronic gaming machine income shall be paid to the city in which the*
38 *racetrack gaming facility is located, an amount equal to 1% of net*
39 *electronic gaming machine income shall be paid to the county in which the*
40 *racetrack gaming facility is located, and an amount equal to 1% of net*
41 *electronic gaming machine income shall be paid to the other county in*
42 *such zone;*

43 ~~(6)~~ (7) *2% an amount equal to 0.5% of net electronic gaming*

1 machine income shall be credited to the problem gambling and addictions
2 grant fund established by K.S.A. 2017 Supp. 79-4805, and amendments
3 thereto;

4 ~~(7)~~ (8) ~~1%~~ *an amount equal to 2%* of net electronic gaming machine
5 income *derived from electronic gaming machines located at a racetrack*
6 *gaming facility located in the northeast Kansas gaming zone* shall be
7 credited to the Kansas horse fair racing benefit fund established by K.S.A.
8 74-8838, and amendments thereto;

9 ~~(8)~~ (9) ~~40% of net electronic gaming machine income shall be~~
10 ~~credited to the expanded lottery act revenues fund~~ *an amount equal to*
11 *0.1% of net electronic gaming machine income derived from electronic*
12 *gaming machines located at a racetrack gaming facility located in the*
13 *south central Kansas gaming zone shall be credited to the Kansas horse*
14 *council fund established by section 4, and amendments thereto; and*

15 ~~(9)~~ (10) ~~15% of electronic gaming machine income shall be used for~~
16 ~~gaming expenses, subject to agreement between the Kansas lottery and the~~
17 ~~remaining balance of net electronic gaming machine income shall be paid~~
18 ~~to the racetrack gaming facility manager.~~

19 (b) A racetrack gaming facility management contract may include
20 provisions for a parimutuel licensee or any other entity to pay the
21 parimutuel licensee's expenses related to electronic gaming machines, as
22 the executive director deems appropriate, ~~subject to the requirements of~~
23 ~~subsection (a)(9).~~

24 Sec. 11. K.S.A. 2017 Supp. 74-8766 is hereby amended to read as
25 follows: 74-8766. (a) There is hereby established in the state treasury the
26 expanded lottery receipts fund. Separate accounts shall be maintained in
27 such fund for receipt of moneys from each lottery gaming facility manager
28 and racetrack gaming facility manager. All expenditures from the fund
29 shall be made in accordance with appropriation acts upon warrants of the
30 director of accounts and reports issued pursuant to vouchers approved by
31 the executive director for the purposes set forth in this act.

32 (b) All lottery gaming facility revenues from lottery gaming facilities
33 and all net electronic gaming machine income from racetrack gaming
34 facilities shall be paid daily and electronically to the executive director.
35 The executive director shall remit all moneys received therefrom to the
36 state treasurer in accordance with K.S.A. 75-4215, and amendments
37 thereto. Upon receipt of the remittance, the state treasurer shall deposit the
38 entire amount in the state treasury and credit it to the respective account
39 maintained for the lottery gaming facility manager or racetrack gaming
40 facility manager in the expanded lottery receipts fund.

41 (c) The executive director shall certify weekly to the director of
42 accounts and reports the percentages or amounts to be transferred from
43 each account maintained in the expanded lottery receipts fund to the

1 expanded lottery act revenues fund, the live horse racing supplement fund,
2 the live greyhound racing purse supplement fund and the problem
3 gambling and addictions grant fund, as provided by the lottery gaming
4 facility management contract or K.S.A. 2017 Supp. 74-8747, and
5 amendments thereto. Upon receipt of the certification, the director of
6 accounts and reports shall transfer amounts from each such account in
7 accordance with the certification of the executive director. Once each
8 month, the executive director shall cause amounts from each such account
9 to be paid to cities, counties and lottery gaming facility managers in
10 accordance with the lottery gaming facility management contract and to
11 racetrack gaming facility managers in accordance with K.S.A. 2017 Supp.
12 74-8747, and amendments thereto.

13 (d) Amounts remaining in an account in the expanded lottery receipts
14 fund after transfers and payments pursuant to subsection (c) *and section 2,*
15 *and amendments thereto,* shall be distributed in accordance with the
16 related lottery gaming facility management contract or racetrack gaming
17 facility management contract.

18 Sec. 12. K.S.A. 74-8802 is hereby amended to read as follows: 74-
19 8802. As used in the Kansas parimutuel racing act unless the context
20 otherwise requires:

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

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

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

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

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

32 (d) "Contract" means an agreement, written or oral, between two or
33 more persons, partnerships, corporations or associations, or any
34 combination thereof, which creates an obligation between the parties.

35 (e) "Crossover employment" means a situation in which an
36 occupational licensee is concurrently employed at the same racing facility
37 by an organization licensee and a facility owner licensee or facility
38 manager licensee.

39 (f) "Dual racetrack facility" means a racetrack facility for the racing
40 of both horses and greyhounds or two immediately adjacent racetrack
41 facilities, owned by the same licensee, one for racing horses and one for
42 racing greyhounds.

43 (g) "Executive director" means the executive director of the

1 commission.

2 (h) "Facility manager licensee" means a person, partnership,
3 corporation or association licensed by the commission and having a
4 contract with an organization licensee to manage a racetrack facility.

5 (i) "Facility owner licensee" means a person, partnership, corporation
6 or association, or the state of Kansas or any political subdivision thereof,
7 licensed by the commission to construct or own a racetrack facility but
8 does not mean an organization licensee which owns the racetrack facility
9 in which it conducts horse or greyhound racing.

10 (j) "Fair association" means an association organized pursuant to
11 K.S.A. 2-125 et seq., and amendments thereto, or a nonprofit association
12 determined by the commission to be otherwise organized to conduct fair
13 activities pursuant to findings of fact entered by the commission in a
14 license order.

15 (k) "Financial interest" means an interest that could result directly or
16 indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as a
17 result of ownership or interest in a business entity or activity or as a result
18 of a salary, gratuity or other compensation or remuneration from any
19 person.

20 (l) "Greyhound" means any greyhound breed of dog properly
21 registered with the national greyhound association of Abilene, Kansas.

22 (m) "Horsemen's association" means any association or corporation:

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

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

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

32 (n) "Horsemen's nonprofit organization" means any nonprofit
33 organization:

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

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

40 (o) "Host facility" means the racetrack at which the race is run or, if
41 the race is run in a jurisdiction which is not participating in the interstate
42 combined wagering pool, the racetrack or other facility which is
43 designated as the host facility.

1 (p) "Host jurisdiction" means the jurisdiction where the host facility
2 is located.

3 (q) "Interstate combined wagering pool" means a parimutuel pool
4 established in one jurisdiction which is combined with comparable
5 parimutuel pools from one or more racing jurisdictions for the purpose of
6 establishing the amount of money returned on a successful wager in the
7 participating jurisdictions.

8 (r) "Intertrack wagering" means wagering on a simulcast race at a
9 licensed racetrack facility or at a facility which is licensed in its racing
10 jurisdiction to conduct live races.

11 (s) "Intrastate combined wagering pool" means a parimutuel pool
12 which is combined with comparable parimutuel pools from one or more
13 racetrack facilities for the purpose of establishing the amount of money
14 returned on a successful wager at the participating racetrack facilities.

15 (t) "Kansas-whelped greyhound" means a greyhound whelped and
16 raised in Kansas for the first six months of its life.

17 (u) "Minus pool" means a parimutuel pool in which, after deducting
18 the takeout, not enough money remains in the pool to pay the legally
19 prescribed minimum return to those placing winning wagers, and in which
20 the organization licensee would be required to pay the remaining amount
21 due.

22 (v) "Nonprofit organization" means:

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

27 (2) a fair association.

28 (w) "Occupation licensee" means a person licensed by the
29 commission to perform an occupation or provide services which the
30 commission has identified as requiring a license pursuant to this act.

31 (x) "Off-track wagering" means wagering on a simulcast race at a
32 facility which is not licensed in its jurisdiction to conduct live races.

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

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

1 (aa) "Parimutuel wagering" means a form of wagering on the
2 outcome of horse and greyhound races in which those who wager purchase
3 tickets of various denominations on one or more horses or greyhounds and
4 all wagers for each race are pooled and the winning ticket holders are paid
5 prizes from such pool in amounts proportional to the total receipts in the
6 pool.

7 (bb) "Race meeting" means one or more periods of racing days
8 during a calendar year designated by the commission for which an
9 organization licensee has been approved by the commission to hold live or
10 simulcast horse or greyhound races at which parimutuel wagering is
11 conducted, including such additional time as designated by the
12 commission for the conduct of official business before and after the races.

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

19 (dd) "Racing jurisdiction" or "jurisdiction" means a governmental
20 authority which is responsible for the regulation of live or simulcast racing
21 in its jurisdiction.

22 (ee) "Racing or wagering equipment or services licensee" means any
23 person, partnership, corporation or association licensed by the commission
24 to provide integral racing or wagering equipment or services, as designated
25 by the commission, to an organization licensee.

26 (ff) "Recognized greyhound owners' group" means the duly
27 recognized group elected in accordance with rules and regulations of the
28 commission by a majority of the Kansas licensed greyhound owners at the
29 racetrack facility voting in the election. The commission may designate an
30 organization such as the national greyhound association of Abilene,
31 Kansas, to conduct the election.

32 (gg) "Recognized horsemen's group" means the duly recognized
33 group, representing the breeds of horses running at a racetrack facility,
34 elected in accordance with rules and regulations of the commission by a
35 majority of the licensed owners and trainers at the racetrack facility voting
36 in the election. If the licensee does not have a recognized horsemen's
37 group, the commission shall designate as the recognized horsemen's group
38 one that serves another organization licensee, but not one that serves a fair
39 association organization licensee.

40 (hh) "Simulcast" means a live audio-visual broadcast of an actual
41 horse or greyhound race at the time it is run.

42 (ii) "Takeout" means the total amount of money withheld from each
43 parimutuel pool for the payment of purses, taxes and the share to be kept

1 by the organization licensee. Takeout does not include the breakage. The
2 balance of each pool less the breakage is distributed to the holders of
3 winning parimutuel tickets.

4 Sec. 13. K.S.A. 2017 Supp. 74-8813 is hereby amended to read as
5 follows: 74-8813. (a) ~~A nonprofit~~ An organization may apply to the
6 commission for an organization license to conduct horse races or an
7 organization license to conduct greyhound races, or both such licenses. In
8 addition, an organization license may authorize the licensee to construct or
9 own a racetrack facility if so provided by the commission. The application
10 for an organization license shall be filed with the commission at a time and
11 place prescribed by rules and regulations of the commission. The
12 application shall specify the days when and the exact location where it
13 proposes to conduct such races and shall be in a form and include such
14 information as the commission prescribes. A nonrefundable application fee
15 in the form of a certified check or bank draft shall accompany the
16 application. Except as provided pursuant to K.S.A. 74-8814, and
17 amendments thereto, such fee shall be \$5,000 for each application. If the
18 application fee is insufficient to pay the reasonable expenses of processing
19 the application and investigating the applicant's qualifications for
20 licensure, the commission shall require the applicant to pay to the
21 commission, at such times and in such form as required by the
22 commission, any additional amounts necessary to pay such expenses. No
23 license shall be issued to an applicant until the applicant has paid such
24 additional amounts in full, and such amounts shall not be refundable
25 except to the extent that they exceed the actual expenses of processing the
26 application and investigating the applicant's qualifications for licensure.

27 (b) If an applicant for an organization license is proposing to
28 construct a racetrack facility, such applicant, at the time of submitting the
29 application, shall deposit with the commission, in such form as prescribed
30 by rules and regulations of the commission, the sum of: (1) \$500,000, if
31 the number of racing days applied for in a racing season is 150 days or
32 more; (2) \$250,000, if the number of racing days applied for is less than
33 150 days; or (3) a lesser sum established by the commission, if the
34 applicant meets the qualifications set forth in ~~subsection (a)(1) or (a)(2) of~~
35 K.S.A. 74-8814(a)(1) or (a)(2), and amendments thereto, or if the
36 applicant will be conducting races only on the state fairgrounds. Only one
37 such deposit shall be required for a dual racetrack facility. The executive
38 director shall remit any deposit received pursuant to this subsection to the
39 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
40 amendments thereto. Upon receipt of each such remittance, the state
41 treasurer shall deposit the entire amount in the state treasury to the credit
42 of the racing applicant deposit fund created by K.S.A. 74-8828, and
43 amendments thereto. If the application is denied by the commission, the

1 deposit, and any interest accrued thereon, shall be refunded to the
2 applicant. If the license is granted by the commission in accordance with
3 the terms of the application or other terms satisfactory to the applicant, the
4 deposit, and any interest accrued thereon, shall be refunded to the licensee
5 upon completion of the racetrack facility in accordance with the terms of
6 the license. If the licensee fails to complete the racetrack facility in
7 accordance with the terms of the license, the deposit, and any interest
8 accrued thereon, shall be forfeited by the applicant.

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

11 (1) ~~The applicant shall be a bona fide, nonprofit organization which,~~
12 ~~if applicable, meets the requirements of subsection (d);~~

13 (2) ~~The applicant shall have, either by itself or through contractual~~
14 ~~relationships with other persons or businesses approved by the~~
15 ~~commission, the financial capability, manpower and technical expertise, as~~
16 ~~determined by the commission, to properly conduct horse races or~~
17 ~~greyhound races, or both, and, if applicable, to operate a parimutuel~~
18 ~~wagering system;~~

19 (3) if the applicant is proposing to construct a racetrack facility, the
20 applicant shall submit detailed plans for the construction of such facility,
21 including the means and source of financing such construction and
22 operation, sufficient to convince the commission that such plans are
23 feasible;

24 (4) submit for commission approval a written copy of each contract
25 and agreement which the applicant proposes to enter into, including all
26 those listed in subsection ~~(n)~~ (m), which contracts and agreements shall
27 conform to the restrictions placed thereon by subsections ~~(n), (o) and (p)~~
28 (m), (n) and (o);

29 (5) the applicant shall propose to conduct races within only one
30 county, and in such county the majority of the qualified electors have
31 approved either: (A) The constitutional amendment permitting the conduct
32 of horse and dog races and parimutuel wagering thereon; or (B) a
33 proposition permitting horse and dog races and parimutuel wagering
34 thereon within the boundaries of such county;

35 (6) no director, officer, employee or agent of the applicant shall have
36 been convicted of any of the following in any court of any state or of the
37 United States or shall have been adjudicated in the last five years in any
38 such court of committing as a juvenile an act which, if committed by an
39 adult, would constitute any of the following: (A) Fixing of horse or
40 greyhound races; (B) illegal gambling activity; (C) illegal sale or
41 possession of any controlled substance; (D) operation of any illegal
42 business; (E) repeated acts of violence; or (F) any felony;

43 (7) no director or officer of the applicant shall be addicted to, and a

1 user of, alcohol or a controlled substance; and

2 (8) no director or officer of the applicant shall have failed to meet any
3 monetary or tax obligation to the federal government or to any state or
4 local government, whether or not relating to the conduct or operation of a
5 race meet held in this state or any other jurisdiction.

6 ~~(d) To qualify for an organization license to conduct horse or~~
7 ~~greyhound races, a nonprofit organization, other than a fair association, a~~
8 ~~horsemen's nonprofit organization or a nonprofit organization conducting~~
9 ~~races only on the state fair grounds, shall:~~

10 (1) ~~Distribute all of its net earnings from the conduct of horse and~~
11 ~~greyhound races, other than that portion of the net earnings which is~~
12 ~~necessary to satisfy the debt service obligations, not otherwise deducted~~
13 ~~from net earnings, of an organization licensee owning the racetrack facility~~
14 ~~or that portion of the net earnings which is set aside as reasonable reserves~~
15 ~~for future improvement, maintenance and repair of the racetrack facility~~
16 ~~owned by the organization licensee, only to organizations, other than itself,~~
17 ~~which: (A) Have been exempted from the payment of federal income taxes~~
18 ~~pursuant to section 501(c)(3) of the federal internal revenue code of 1986,~~
19 ~~as in effect July 1, 1987, (B) are domiciled in this state and (C) expend the~~
20 ~~moneys so distributed only within this state;~~

21 (2) ~~distribute not more than 25% of such net earnings to any one such~~
22 ~~organization in any calendar year;~~

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

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

28 (e) Within 30 days after the date specified for filing, the commission
29 shall examine each application for an organization license for compliance
30 with the provisions of this act and rules and regulations of the commission.
31 If any application does not comply with the provisions of this act or rules
32 and regulations of the commission, the application may be rejected or the
33 commission may direct the applicant to comply with the provisions of this
34 act or rules and regulations of the commission within a reasonable time, as
35 determined by the commission. Upon proof by the applicant of
36 compliance, the commission may reconsider the application. If an
37 application is found to be in compliance and the commission finds that the
38 issuance of the license would be within the best interests of horse and
39 greyhound racing within this state from the standpoint of both the public
40 interest and the horse or greyhound industry, as determined solely within
41 the discretion of the commission, the commission may issue an
42 organization license to the applicant. The commission shall approve the
43 issuance of organization licenses for a period established by the

1 commission but not to exceed 25 years. Such license may provide that
2 during its term it constitutes an exclusive license within a radius of the
3 location specified in the license, as determined by the commission. No
4 racing of any kind regulated by this act shall be conducted by any other
5 person within the territory covered by such exclusive license without the
6 written consent of the licensee. For each license issued, the commission
7 shall specify the location, type, time and date of all races and race
8 meetings which the commission has approved for the licensee to conduct.
9 The license shall be issued upon receipt of the license fee and the
10 furnishing of a surety bond or other financial security approved by the
11 commission, conditioned on, and in an amount determined by the
12 commission as sufficient to pay, the licensee's potential financial liability
13 for unpaid taxes, purses and distribution of parimutuel winnings and
14 breakage. No organization license shall be transferred to any other
15 organization or entity.

16 ~~(f)~~ (e) When considering the granting of organization licenses or
17 racing days between two or more competing applicants, the commission
18 shall give consideration to the following factors:

19 (1) The character, reputation, experience and financial stability of
20 those persons within the applicant organizations who will be supervising
21 the conduct of the races and parimutuel wagering for the organization;

22 (2) the quality of the racing facilities and adjoining accommodations;

23 (3) the amount of revenue that can reasonably be expected to be
24 generated from state and local taxes, the economic impact for the
25 respective horse or greyhound breeding industries in Kansas and the
26 indirect economic benefit to the surrounding area, in the determination of
27 which economic benefit the commission shall solicit written
28 recommendations from all interested parties in the surrounding area;

29 (4) the location of the race meetings in relation to the principal
30 centers of population and the effect of such centers on the ability of the
31 organizations to sustain a financially sound racing operation; and

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

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

43 ~~(h)~~ (g) Organization licensees may apply to the commission for

1 changes in approved race meetings or dates or for additional race meetings
2 or dates as needed throughout the terms of their licenses. Application shall
3 be made upon forms furnished by the commission and shall contain or be
4 accompanied by such information as the commission prescribes. Upon
5 approval by the commission, the organization licensee shall pay an
6 additional license fee for any race days in excess of the number originally
7 approved and included in the calculation of the initial license fee.

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

21 ~~(i)~~ (i) Subject to the provisions of subsection ~~(k)~~ (j), the commission,
22 in accordance with the Kansas administrative procedure act, may suspend
23 or revoke an organization license or may impose a civil fine not exceeding
24 \$5,000, or may both suspend such license and impose such fine, for each
25 of the following violations by a licensee:

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

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

31 (3) failure to maintain compliance with the requirements of
32 subsection (c) ~~or (d)~~, if applicable, for the initial issuance of an
33 organization license;

34 (4) failure to properly maintain or to make available to the
35 commission such financial and other records sufficient to permit the
36 commission to verify the licensee's ~~nonprofit status~~ and compliance with
37 the provisions of this act or rules and regulations of the commission;

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

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

43 (7) a violation of K.S.A. 74-8833, and amendments thereto, or any

1 rules and regulations adopted pursuant to that section.

2 ~~(k)~~ (j) Prior to suspension or revocation of a license pursuant to
3 subsection ~~(j)~~ (i), the commission shall give written notice of the reason
4 therefor in detail to the organization licensee and to all facility owner and
5 facility manager licensees with whom the organization licensee is doing
6 business. Upon receipt of such notice by all of such licensees, the
7 organization licensee shall have 30 days in which to cure the alleged
8 violation, if it can be cured. If the commission finds that the violation has
9 not been cured upon expiration of the 30 days, or upon a later deadline
10 granted by the commission, or if the commission finds that the alleged
11 violation is of such a nature that it cannot be cured, the commission shall
12 proceed to suspend or revoke the license pursuant to subsection ~~(j)~~ (i).
13 Nothing in this subsection shall be construed to preclude the commission
14 from imposing a fine pursuant to subsection ~~(j)~~ (i) even if the violation is
15 cured within 30 days or such other period as provided by the commission.

16 ~~(k)~~ (k) Prior to the expiration of an organization license, the
17 organization may apply to the commission for renewal of such license. The
18 renewal application shall be in a form and include such information as the
19 commission prescribes. The commission shall grant such renewal if the
20 organization meets all of the qualifications required for an initial license.
21 The commission may charge a fee for the processing of the renewal
22 application not to exceed the application fee authorized for an initial
23 license.

24 ~~(m)~~ (l) Once an organization license has been issued, no person
25 thereafter and during the term of such license shall in any manner become
26 the owner or holder, directly or indirectly, of any shares of stock or
27 certificates or other evidence of ownership or become a director or officer
28 of such organization licensee without first having obtained the written
29 approval of the commission.

30 ~~(n)~~ (m) An organization licensee shall submit to the commission for
31 approval a copy of each contract and agreement which the organization
32 licensee proposes to enter into and any proposed modification of any such
33 contract or agreement, including but not limited to those involving:

- 34 (1) Any person to be employed by the organization licensee;
- 35 (2) any person supplying goods and services to the organization
36 licensee, including management, consulting or other professional services;
- 37 (3) any lease of facilities, including real estate or equipment or other
38 personal property; or
- 39 (4) the operation of any concession within or adjacent to the racetrack
40 facility.

41 The commission shall reject any such contract or agreement which
42 violates any provision of this act or rules and regulations of the
43 commission, which provides for payment of money or other valuable

1 consideration which is clearly in excess of the fair market value of the
2 goods, services or facilities being purchased or leased or which, in the case
3 of a contract or agreement with a facility owner licensee or a facility
4 manager licensee, would not protect the organization licensee from
5 incurring losses due to contractual liability.

6 (⊕) (n) Organization licensees shall not by lease, contract, agreement,
7 understanding or arrangement of any kind grant, assign or turn over to any
8 person the parimutuel system of wagering described in K.S.A. 74-8819,
9 and amendments thereto, or the operation and conduct of any horse or
10 greyhound race to which such wagering applies, but this subsection shall
11 not prohibit the organization licensee from contracting with and
12 compensating others for providing services in connection with the
13 financing, acquisition, construction, equipping, maintenance and
14 management of the racetrack facility; the hiring and training of personnel;
15 the promotion of the facility; operation and conduct of a simulcast race
16 displayed by a simulcasting licensee; parimutuel wagering at racetrack
17 facilities; and parimutuel wagering at off-track wagering and intertrack
18 wagering facilities in other jurisdictions to which live races conducted by
19 the organization licensee are simulcast.

20 (⊕) (o) An organization licensee shall not in any manner permit a
21 person other than such licensee to have a share, percentage or proportion
22 of money received from parimutuel wagering at the racetrack facility
23 except as specifically set forth in this act, except that:

24 (1) A facility owner licensee may receive gross percentage rental fees
25 under a lease if all terms of the lease are disclosed to the commission and
26 such lease is approved by the commission;

27 (2) a person who has contracted with an organization licensee to
28 provide one or more of the services permitted by subsection (⊕) (n) may
29 receive compensation in the form of a percentage of the money received
30 from parimutuel wagering if such contract is approved by the commission
31 and such person is licensed as a facility manager; and

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

37 (⊕) (p) Directors or officers of an organization licensee are not liable
38 in a civil action for damages arising from their acts or omissions when
39 acting as individual directors or officers, or as a board as a whole, of a
40 nonprofit organization conducting races pursuant to this act, unless such
41 conduct constitutes willful or wanton misconduct or intentionally tortious
42 conduct, but only to the extent the directors and officers are not required to
43 be insured by law or are not otherwise insured against such acts or

1 omissions. Nothing in this section shall be construed to affect the liability
2 of an organization licensee for damages in a civil action caused by the
3 negligent or wrongful acts or omissions of its directors or officers, and a
4 director's or officer's negligence or wrongful act or omission, while acting
5 as a director or officer, shall be imputed to the organization licensee for the
6 purpose of apportioning liability for damages to a third party pursuant to
7 K.S.A. 60-258a, and amendments thereto.

8 ~~(p)~~ (q) If an applicant for an organization license proposes to
9 construct a racetrack facility and the commission determines that such
10 license should be issued to the applicant, the commission shall issue to the
11 applicant an organization license conditioned on the submission by the
12 licensee to the commission, within a period of time prescribed by the
13 commission, of a commitment for financing the construction of the
14 racetrack facility by a financial institution or other source, subject to
15 approval by the commission. If such commitment is not submitted within
16 the period of time originally prescribed by the commission or such
17 additional time as authorized by the commission, the license shall expire at
18 the end of such period.

19 ~~(s)~~ (r) If an organization licensee's license authorizes the construction
20 of a dual racetrack facility, such license shall be conditioned on the
21 completion of such facility within a time specified by the commission. If,
22 within the time specified by the commission, the licensee has not
23 constructed a dual racetrack facility in accordance with the plans
24 submitted to the commission pursuant to subsection (c)(3), the
25 commission, in accordance with the Kansas administrative procedure act,
26 shall:

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

32 (2) revoke the licensee's license unless the licensee demonstrates
33 reasonable cause for the failure to complete the facility.

34 ~~(t)~~ (s) Any license granted an organization licensee to conduct races
35 at a dual racetrack facility shall be conditioned on the organization
36 licensee's conducting live horse races on not less than 20% of the annual
37 racing days granted the licensee by the commission. If an organization
38 licensee fails to comply with such condition, the commission may revoke
39 the organization licensee's license unless the licensee demonstrates
40 reasonable justification for the failure.

41 ~~(u)~~ (t) The refusal to renew an organization license shall be in
42 accordance with the Kansas administrative procedure act and shall be
43 subject to review under the Kansas judicial review act.

1 (⇆) (u) The grant or denial of an original organization license shall not
 2 be subject to the Kansas administrative procedure act. Such grant or denial
 3 shall be a matter to be determined in the sole discretion of the commission,
 4 whose decision shall be final upon the grant of a license to one of two or
 5 more competing applicants without the necessity of a hearing on the denial
 6 of a license to each other competing applicant. Any action for judicial
 7 review of such decision shall be by appeal to the supreme court in
 8 accordance with the Kansas judicial review act, except that the scope of
 9 review shall be limited to whether the action of the commission was
 10 arbitrary or capricious or constituted an abuse of discretion. All competing
 11 applicants for the organization license shall be parties to such appeal. Any
 12 such appeal shall have priority over other cases except those having
 13 statutory priority.

14 (⇆) (v) The commission may adopt rules and regulations regulating
 15 crossover employment between organization licensees and facility
 16 manager licensees and facility owner licensees.

17 Sec. 14. K.S.A. 2017 Supp. 74-8814 is hereby amended to read as
 18 follows: 74-8814. (a) Subject to the provisions of subsection (b), the
 19 commission shall establish by rules and regulations an application fee not
 20 exceeding \$500 \$50 for any of the following ~~which organizations that~~
 21 ~~applies for an organization license and the a license fee for any of the~~
 22 ~~following granted an organization license shall be \$100 of \$25 for each~~
 23 ~~day of racing approved by the commission for any of the following~~
 24 ~~organizations that are granted an organization license:~~

25 ~~(1) Any fair association other than the Greenwood county and~~
 26 ~~Anthony fair associations; any horsemen's nonprofit organization; or the~~
 27 ~~national greyhound association of Abilene, Kansas, if: (A) (1) Such~~
 28 ~~association conducts not more than two race meetings each year; (B) (2)~~
 29 ~~such race meets are held within the boundaries of the county where the~~
 30 ~~applicant is located; and (C) (3) such race meetings are held for a total of~~
 31 ~~not more than 40 days per year; or~~

32 ~~(2) the Greenwood county fair association or a horsemen's nonprofit~~
 33 ~~organization, with respect to race meetings conducted by such association~~
 34 ~~or organization at Eureka Downs, or the Anthony fair association or a~~
 35 ~~horsemen's nonprofit organization, with respect to race meetings~~
 36 ~~conducted by such association or organization at Anthony Downs, for~~
 37 ~~which the number of race meetings and days, and the dates thereof, shall~~
 38 ~~be specified by the commission.~~

39 (b) The commission shall adopt rules and regulations providing for
 40 expedited, simplified and less costly procedures and requirements for fair
 41 associations and horsemen's nonprofit organizations applying for or
 42 holding a license to conduct race meetings.

43 (c) The Kansas racing and gaming commission shall investigate

1 *perform a criminal history records check and credit history check of:*

2 (1) The president, vice-president, secretary and treasurer of a fair
3 association, and such other members as the commission considers
4 necessary, to determine eligibility for an organization license; *and*

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

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

12 Sec. 15. K.S.A. 74-8836 is hereby amended to read as follows: 74-
13 8836. (a) Any organization licensee that conducts at least ~~150~~ 60 days of
14 live racing during a calendar year, *or is in compliance with the provisions*
15 *of K.S.A. 2017 Supp. 74-8746, and amendments thereto*, or a fair
16 association that conducts fewer than ~~22~~ 40 days of live racing during a
17 calendar year may apply to the commission for a simulcasting license to
18 display simulcast horse or greyhound races and to conduct intertrack
19 parimutuel wagering thereon. If the organization licensee conducts races at
20 a racetrack facility that is owned by a facility owner licensee, both
21 licensees shall join in the application. ~~A simulcasting license granted to a~~
22 ~~fair association that conducts fewer than 22 days of live racing shall~~
23 ~~restrict the fair association's display of simulcast races to a number of~~
24 ~~days, including days on which it conducts live races, equal to not more~~
25 ~~than twice the number of days on which it conducts live races.~~

26 (b) (1) A simulcasting license granted to an organization licensee
27 other than a fair association shall authorize the display of simulcast races
28 at the racetrack facility where the live races are conducted so long as the
29 licensee ~~conducts at least eight live races per day and an average of 10 live~~
30 ~~races per day per week~~ *is in compliance with the provisions of K.S.A. 2017*
31 *Supp. 74-8746, and amendments thereto*. If a simulcasting licensee
32 conducts live horse races on a day when simulcast races are displayed by
33 the licensee and the licensee conducts fewer than an average of 10 live
34 horse races per day per week, not less than 80% of the races on which
35 wagers are taken by the licensee during such week shall be live races
36 conducted by the licensee unless approved by the recognized horsemen's
37 group or upon a finding by the commission that the organization licensee
38 was unable to do so for reasonable cause. If a simulcast licensee conducts
39 live greyhound races on a day when simulcast races *also* are displayed by
40 the licensee and the licensee schedules fewer than 13 live greyhound races
41 during a performance on such day, not less than 80% of the races on which
42 wagers are taken by the licensee during such performance shall be live
43 races conducted by the licensee.

1 (2) A simulcasting license granted to a fair association shall authorize
2 the display of simulcast races at the racetrack facility where the races are
3 conducted ~~only if live races are scheduled for two or more days of the~~
4 ~~same calendar week, except that the licensee may conduct simulcast races~~
5 ~~in the week immediately before and immediately after a live meeting if the~~
6 ~~total number of days on which simulcast races are displayed does not~~
7 ~~exceed the total authorized in subsection (a). In no case shall the live meet~~
8 ~~or simulcast races allowed under this subsection exceed 10 consecutive~~
9 ~~weeks. For purposes of this subsection, a calendar week shall be measured~~
10 ~~from Monday through the following Sunday.~~

11 (3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2),
12 a fair association may apply to the commission for not more than five
13 additional days of simulcasting of special events. In addition, the
14 commission may authorize a fair association to display additional
15 simulcast races but, if such fair association is less than 100 miles from an
16 organization licensee that is not a fair association, it also shall secure
17 written consent from that organization licensee.

18 ~~(4)~~ Notwithstanding the provisions of subsection (b)(1), if an
19 emergency causes the cancellation of all or any live races scheduled for a
20 day or performance by a simulcasting licensee, the commission or the
21 commission's designee may authorize the licensee to display any simulcast
22 races previously scheduled for such day or performance.

23 ~~(5)~~ (4) Notwithstanding the provisions of subsection (b)(1), the
24 commission may authorize the licensee to display simulcast special racing
25 events as designated by the commission.

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

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

31 (1) Comply with the interstate horse racing act of 1978 ~~(15 U.S.C. §~~
32 ~~3001 et seq.)~~, as in effect December 31, 1991;

33 (2) submit with the application a written approval of the proposed
34 simulcasting schedule signed by: (A) The recognized horsemen's group for
35 the track, if the applicant is licensed to conduct only horse races, *and*
36 *horse races or greyhound races, or both, are to be simulcast*; (B) the
37 recognized greyhound owners' group, if the applicant is licensed to
38 conduct only greyhound races and only greyhound races are to be
39 simulcast; (C) both the recognized greyhound owners' group and a
40 recognized horsemen's group, if the applicant is licensed to conduct only
41 greyhound races and horse races are to be simulcast; (D) the recognized
42 greyhound owners' group, if the applicant is licensed to conduct both
43 greyhound and horse races, only greyhound races are to be simulcast and

1 races are to be simulcast only while the applicant is conducting live
2 greyhound races; (E) the recognized horsemen's group for the track, if the
3 applicant is licensed to conduct both greyhound and horse races, only
4 horse races are to be simulcast and races are to be simulcast only while the
5 applicant is conducting live horse races; or (F) both the recognized
6 greyhound owners' group and the recognized horsemen's group for the
7 track, if the applicant is licensed to conduct both greyhound races and
8 horse races and horse races are to be simulcast while the applicant is
9 conducting live greyhound races or greyhound races are to be simulcast
10 while the applicant is conducting live horse races; and

11 (3) submit, in accordance with rules and regulations of the
12 commission and before the simulcasting of a race, a written copy of each
13 contract or agreement which the applicant proposes to enter into with
14 regard to such race, and any proposed modification of any such contract or
15 agreement.

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

17 (f) A simulcasting licensee may apply to the commission or its
18 designee for changes in the licensee's approved simulcasting schedule if
19 such changes are approved by the respective recognized greyhound
20 owners' group or recognized horsemen's group needed throughout the term
21 of the license. Application shall be made upon forms furnished by the
22 commission and shall contain such information as the commission
23 prescribes.

24 (g) Except as provided by subsection (j), the takeout for simulcast
25 horse and greyhound races shall be the same as it is for the live horse and
26 greyhound races conducted during the current or next live race meeting at
27 the racetrack facility where the simulcast races are displayed. For
28 simulcast races the tax imposed on amounts wagered shall be as provided
29 by K.S.A. 74-8823, and amendments thereto. Of the balance of the takeout
30 remaining after deduction of taxes, an amount equal to a percentage, to be
31 determined by the commission, of the gross sum wagered on simulcast
32 races shall be used for purses, as follows:

33 (1) For greyhound races conducted by the licensee, if the simulcast
34 race is a greyhound race and the licensee conducts only live greyhound
35 races;

36 (2) for horse races conducted by the licensee, if the simulcast race is a
37 horse race and the licensee conducts only live horse races;

38 (3) for horse races and greyhound races, as determined by both the
39 recognized horsemen's group and the recognized greyhound owners'
40 group, if the simulcast race is a greyhound race and the licensee does not
41 conduct or is not currently conducting live greyhound races; or

42 (4) for horse races and greyhound races, as determined by both the
43 recognized horsemen's group and the recognized greyhound owners'

1 group, if the simulcast is a horse race and the licensee does not conduct or
2 is not currently conducting live horse races. That portion of simulcast
3 purse money determined to be used for horse purses shall be apportioned
4 by the commission to the various horse race meetings held in any calendar
5 year *at the racetrack facility where the live horse races were conducted,*
6 *and shall be* based upon the number of live horse race dates comprising
7 such horse race meetings in the preceding calendar year.

8 (h) Except as provided by subsection (j):

9 (1) If a simulcasting licensee has a license to conduct live horse races
10 and the *simulcasting* licensee displays a simulcast horse race: (A) All
11 breakage proceeds shall be remitted by the licensee to the commission not
12 later than the 15th day of the month following the race from which the
13 breakage is derived and the commission shall remit any such proceeds
14 received to the state treasurer in accordance with the provisions of K.S.A.
15 75-4215, and amendments thereto. Upon receipt of each such remittance,
16 the state treasurer shall deposit the entire amount in the state treasury to
17 the credit of the Kansas horse breeding development fund created by
18 K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket
19 proceeds shall be remitted by the licensee to the commission on the 61st
20 day after the end of the calendar year and the commission shall remit any
21 such proceeds received to the state treasurer in accordance with the
22 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
23 each such remittance, the state treasurer shall deposit the entire amount in
24 the state treasury to the credit of the Kansas horse breeding development
25 fund created by K.S.A. 74-8829, and amendments thereto.

26 (2) If a simulcasting licensee has a license to conduct live greyhound
27 races and the *simulcasting* licensee displays a simulcast greyhound race,
28 breakage and unclaimed winning ticket proceeds shall be distributed in the
29 manner provided by K.S.A. 74-8821 and 74-8822, and amendments
30 thereto, for breakage and unclaimed winning ticket proceeds from live
31 greyhound races.

32 (3) If a simulcasting licensee has a license to conduct live racing of
33 only horses and the *simulcasting* licensee displays a simulcast greyhound
34 race, unclaimed winning ticket proceeds shall be distributed in the manner
35 provided by K.S.A. 74-8822, and amendments thereto, for unclaimed
36 winning ticket proceeds from live greyhound races. Breakage for such
37 races shall be distributed for use to benefit greyhound racing as determined
38 by the commission.

39 (4) If a simulcasting licensee has a license to conduct live racing of
40 only greyhounds and the *simulcasting* licensee displays a simulcast horse
41 race: (A) All breakage proceeds shall be remitted by the licensee to the
42 commission not later than the 15th day of the month following the race
43 from which the breakage is derived and the commission shall remit any

1 such proceeds received to the state treasurer in accordance with the
2 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
3 each such remittance, the state treasurer shall deposit the entire amount in
4 the state treasury to the credit of the Kansas horse breeding development
5 fund created by K.S.A. 74-8829, and amendments thereto; and (B) all
6 unclaimed ticket proceeds shall be remitted by the licensee to the
7 commission on the 61st day after the end of the calendar year and the
8 commission shall remit any such proceeds received to the state treasurer in
9 accordance with the provisions of K.S.A. 75-4215, and amendments
10 thereto. Upon receipt of each such remittance, the state treasurer shall
11 deposit the entire amount in the state treasury to the credit of the Kansas
12 horse breeding development fund created by K.S.A. 74-8829, and
13 amendments thereto.

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

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

20 (2) If a licensee participates in an interstate pool, the licensee may
21 adopt the takeout of the host jurisdiction or facility. The amount and
22 manner of paying purses from the takeout in an interstate pool shall be as
23 provided by subsection (g).

24 (3) The tax imposed on amounts wagered in an interstate pool shall
25 be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel
26 taxes may not be imposed on any amounts wagered in an interstate
27 combined wagering pool other than amounts wagered within this
28 jurisdiction.

29 (4) Breakage for interstate combined wagering pools shall be
30 calculated in accordance with the statutes and rules and regulations of the
31 host jurisdiction and shall be allocated among the participating
32 jurisdictions in a manner agreed to among the jurisdictions. Breakage
33 allocated to this jurisdiction shall be distributed as provided by subsection
34 (h).

35 (5) Upon approval of the respective recognized greyhound owners'
36 group or recognized horsemen's group, the commission may permit an
37 organization licensee to simulcast to other racetrack facilities or off-track
38 wagering or intertrack wagering facilities in other jurisdictions one or
39 more races conducted by such licensee, use one or more races conducted
40 by such licensee for an intrastate combined wagering pool or use one or
41 more races conducted by such licensee for an interstate combined
42 wagering pool at off-track wagering or intertrack wagering locations
43 outside the commission's jurisdiction and may allow parimutuel pools in

1 other jurisdictions to be combined with parimutuel pools in the
2 commission's jurisdiction for the purpose of establishing an interstate
3 combined wagering pool.

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

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

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

15 Sec. 16. K.S.A. 2017 Supp. 75-6204 is hereby amended to read as
16 follows: 75-6204. (a) Subject to the limitations provided in this act, if a
17 debtor fails to pay to the state of Kansas or any state agency, foreign state
18 agency, municipality or the federal department of the treasury an amount
19 owed, the director may setoff such amount and a reasonable collection
20 assistance fee determined in accordance with K.S.A. 75-6210, and
21 amendments thereto, against any money held for, or any money owed to,
22 such debtor by the state ~~or~~, any state agency, *lottery gaming facility*
23 *manager, racetrack gaming facility manager or facility owner licensee.*

24 (b) The director may enter into an agreement with a municipality for
25 participation in the setoff program for the purpose of assisting in the
26 collection of a debt as defined by K.S.A. 75-6202, and amendments
27 thereto. The director shall include in any such agreement a provision
28 requiring the municipality to certify that the municipality has made at least
29 three attempts to collect a debt prior to submitting such debt to setoff
30 pursuant to this act.

31 (c) (1) Except as provided in subsection (c)(2), the director shall add
32 the cost of collection and the debt for a total amount subject to setoff
33 against a debtor.

34 (2) Any debts due and owing to an individual, the state of Kansas or
35 an agency of another state that are being enforced by the Kansas
36 department for children and families under part D of title IV of the federal
37 social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the
38 cost of collection added to the debt owed and subject to setoff. Such cost
39 of collection shall be paid by the Kansas department for children and
40 families.

41 Sec. 17. K.S.A. 74-8802 and 74-8836 and K.S.A. 2017 Supp. 74-
42 8702, 74-8741, 74-8743, 74-8744, 74-8746, 74-8747, 74-8766, 74-8813,
43 74-8814 and 75-6204 are hereby repealed.

1 Sec. 18. This act shall take effect and be in force from and after its
2 publication in the statute book.