

**SENATE BILL No. 225**

By Committee on Federal and State Affairs

3-8

1 AN ACT concerning certain crimes; relating to charitable poker  
2 tournaments; amending K.S.A. 2016 Supp. 21-6403 and repealing the  
3 existing section.

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

6 Section 1. K.S.A. 2016 Supp. 21-6403 is hereby amended to read as  
7 follows: 21-6403. As used in K.S.A. 2016 Supp. 21-6403 through 21-  
8 6409, and amendments thereto:

9 (a) "Bet" means a bargain in which the parties agree that, dependent  
10 upon chance, one stands to win or lose something of value specified in the  
11 agreement. A bet does not include:

12 (1) Bona fide business transactions which are valid under the law of  
13 contracts including, but not limited to, contracts for the purchase or sale at  
14 a future date of securities or other commodities, and agreements to  
15 compensation for loss caused by the happening of the chance including,  
16 but not limited to, contracts of indemnity or guaranty and life or health and  
17 accident insurance;

18 (2) offers of purses, prizes or premiums to the actual contestants in  
19 any bona fide contest for the determination of skill, speed, strength or  
20 endurance or to the bona fide owners of animals or vehicles entered in  
21 such a contest;

22 (3) a lottery as defined in this section;

23 (4) any bingo game by or for participants managed, operated or  
24 conducted in accordance with the laws of the state of Kansas by an  
25 organization licensed by the state of Kansas to manage, operate or conduct  
26 games of bingo;

27 (5) a lottery operated by the state pursuant to the Kansas lottery act;

28 (6) any system of parimutuel wagering managed, operated and  
29 conducted in accordance with the Kansas parimutuel racing act;

30 (7) tribal gaming;

31 (8) charitable raffles as defined by K.S.A. 2016 Supp. 75-5173, and  
32 amendments thereto;

33 (9) a fantasy sports league as defined in this section; or

34 (10) a charitable poker tournament as defined in this section;

35 (b) "lottery" means an enterprise wherein for a consideration the  
36 participants are given an opportunity to win a prize, the award of which is

1 determined by chance. A lottery does not include:

2 (1) A lottery operated by the state pursuant to the Kansas lottery act;  
3 or

4 (2) tribal gaming;

5 (c) "consideration" means anything which is a commercial or  
6 financial advantage to the promoter or a disadvantage to any participant.  
7 Mere registration without purchase of goods or services; personal  
8 attendance at places or events, without payment of an admission price or  
9 fee; listening to or watching radio and television programs; answering the  
10 telephone or making a telephone call and acts of like nature are not  
11 consideration. "Consideration" shall not include sums of money paid by or  
12 for:

13 (1) Participants in any bingo game managed, operated or conducted  
14 in accordance with the laws of the state of Kansas by any bona fide  
15 nonprofit religious, charitable, fraternal, educational or veteran  
16 organization licensed to manage, operate or conduct bingo games under  
17 the laws of the state of Kansas and it shall be conclusively presumed that  
18 such sums paid by or for such participants were intended by such  
19 participants to be for the benefit of the sponsoring organizations for the use  
20 of such sponsoring organizations in furthering the purposes of such  
21 sponsoring organizations, as set forth in the appropriate paragraphs of  
22 section 501(c) or (d) of the internal revenue code of 1986 and as set forth  
23 in K.S.A. 79-4701, and amendments thereto;

24 (2) participants in any lottery operated by the state pursuant to the  
25 Kansas lottery act;

26 (3) participants in any system of parimutuel wagering managed,  
27 operated and conducted in accordance with the Kansas parimutuel racing  
28 act; or

29 (4) a person to participate in tribal gaming;

30 (d) *"charitable poker tournament" means a poker game or contest in*  
31 *which participants make a donation, which is suggested but not required,*  
32 *to participate in the game or contest. The primary purpose of the game or*  
33 *contest is to raise money for a bona fide nonprofit religious, charitable,*  
34 *fraternal, educational or veterans' organization, as defined in K.S.A. 75-*  
35 *5173, and amendments thereto. Prizes are awarded to a select number of*  
36 *winners of the game or contest;*

37 (e) "fantasy sports league" means any fantasy or simulation sports  
38 game or contest in which no fantasy or simulation sports team is based on  
39 the current membership of an actual team that is a member of an amateur  
40 or professional sports organization and that meets the following  
41 conditions:

42 (1) All prizes and awards offered to winning participants are  
43 established and made known to the participants in advance of the game or

1 contest and their value is not determined by the number of participants or  
2 the amount of any fees paid by those participants;

3 (2) all winning outcomes reflect the relative knowledge and skill of  
4 the participants and are determined predominantly by accumulated  
5 statistical results of the performance of individual athletes in multiple real-  
6 world sporting events; and

7 (3) no winning outcome is based:

8 (A) On the score, point spread or any performance or performances  
9 of any single real-world team or any combination of such teams; or

10 (B) solely on any single performance of an individual athlete in any  
11 single real-world sporting event.

12 ~~(e)~~ (f) (1) "gambling device" means any:

13 (A) So-called "slot machine" or any other machine, mechanical  
14 device, electronic device or other contrivance an essential part of which is  
15 a drum or reel with insignia thereon, and:

16 (i) Which when operated may deliver, as the result of chance, any  
17 money or property; or

18 (ii) by the operation of which a person may become entitled to  
19 receive, as the result of chance, any money or property;

20 (B) other machine, mechanical device, electronic device or other  
21 contrivance including, but not limited to, roulette wheels and similar  
22 devices, which are equipped with or designed to accommodate the addition  
23 of a mechanism that enables accumulated credits to be removed, is  
24 equipped with or designed to accommodate a mechanism to record the  
25 number of credits removed or is otherwise designed, manufactured or  
26 altered primarily for use in connection with gambling, and:

27 (i) Which when operated may deliver, as the result of chance, any  
28 money or property; or

29 (ii) by the operation of which a person may become entitled to  
30 receive, as the result of chance, any money or property;

31 (C) subassembly or essential part intended to be used in connection  
32 with any such machine, mechanical device, electronic device or other  
33 contrivance, but which is not attached to any such machine, mechanical  
34 device, electronic device or other contrivance as a constituent part; or

35 (D) any token, chip, paper, receipt or other document which  
36 evidences, purports to evidence or is designed to evidence participation in  
37 a lottery or the making of a bet.

38 The fact that the prize is not automatically paid by the device does not  
39 affect its character as a gambling device.

40 (2) "Gambling device" shall not include:

41 (A) Any machine, mechanical device, electronic device or other  
42 contrivance used or for use by a licensee of the Kansas racing commission  
43 as authorized by law and rules and regulations adopted by the commission

1 or by the Kansas lottery or Kansas lottery retailers as authorized by law  
2 and rules and regulations adopted by the Kansas lottery commission;

3 (B) any machine, mechanical device, electronic device or other  
4 contrivance, such as a coin-operated bowling alley, shuffleboard, marble  
5 machine, a so-called pinball machine, or mechanical gun, which is not  
6 designed and manufactured primarily for use in connection with gambling,  
7 and:

8 (i) Which when operated does not deliver, as a result of chance, any  
9 money; or

10 (ii) by the operation of which a person may not become entitled to  
11 receive, as the result of the application of an element of chance, any  
12 money;

13 (C) any so-called claw, crane or digger machine and similar devices  
14 which are designed and manufactured primarily for use at carnivals or  
15 county or state fairs; or

16 (D) any machine, mechanical device, electronic device or other  
17 contrivance used in tribal gaming;

18 ~~(f)~~ (g) "gambling place" means any place, room, building, vehicle,  
19 tent or location which is used for any of the following: Making and settling  
20 bets; receiving, holding, recording or forwarding bets or offers to bet;  
21 conducting lotteries; or playing gambling devices. Evidence that the place  
22 has a general reputation as a gambling place or that, at or about the time in  
23 question, it was frequently visited by persons known to be commercial  
24 gamblers or known as frequenters of gambling places is admissible on the  
25 issue of whether it is a gambling place;

26 ~~(g)~~ (h) "tribal gaming" means the same as in K.S.A. 74-9802, and  
27 amendments thereto; and

28 ~~(h)~~ (i) "tribal gaming commission" means the same as in K.S.A. 74-  
29 9802, and amendments thereto.

30 Sec. 2. K.S.A. 2016 Supp. 21-6403 is hereby repealed.

31 Sec. 3. This act shall take effect and be in force from and after its  
32 publication in the statute book.