

SESSION OF 2017

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2313**

As Agreed to June 2, 2017

Brief*

HB 2313 would amend the Kansas Lottery Act to allow the use of lottery ticket vending machines, the use of instant bingo vending machines, amend law concerning underage purchasing of lottery tickets, extend the sunset provision for the Kansas Lottery in current law, amend law directing transfers from the Lottery Operating Fund, and amend law concerning the State Debt Setoff Program.

Lottery Machines; Definition Changes

The bill would amend the definition of “lottery machine” by removing the term “lottery ticket vending machine” from the definition of “lottery machine.” The bill would further amend the definition of “lottery machine” to specify that lottery ticket vending machines and instant bingo vending machines are not considered lottery machines. Games on lottery machines are prohibited under law that would remain unchanged by the bill (KSA 2016 Supp. 74-8710).

Lottery Ticket Vending Machines

The bill would allow the Kansas Lottery to use lottery ticket vending machines to sell lottery tickets.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The bill would also create a definition for “lottery ticket vending machine,” as follows:

- “Lottery ticket vending machine” would mean a machine or similar electronic device owned or leased by the Kansas Lottery, the sole purposes of which are to:
 - Dispense a printed physical ticket, such as a lottery ticket, a keno ticket, a pull tab ticket, or an instant bingo ticket, or a coupon, the coupon of which must be redeemed through something other than a lottery ticket vending machine, after a purchaser inserts cash or other form of consideration into the machine;
 - Allow purchasers to manually check the winning status of a Kansas Lottery ticket; and
 - Display advertising, promotions, and other information pertaining to the Kansas Lottery.

The bill would state a lottery ticket vending machine shall not:

- Provide a visual or audio representation of an electronic gaming machine;
- Visually or functionally have the same characteristics of an electronic gaming machine;
- Automatically determine or display the winning status of any dispensed ticket;
- Extend or arrange credit for the purchase of a ticket;
- Dispense any winnings;
- Dispense any prize or dispense any evidence of a prize other than the lottery ticket, keno ticket, pull tab ticket, or instant bingo ticket, or any free

Kansas Lottery ticket received as a result of the purchase of another Kansas Lottery ticket;

- Provide free games or any other item that can be redeemed for cash; or
- Dispense any other form of a prize to a purchaser.

Further, the bill would allow lottery ticket vending machines to dispense only the printed physical lottery ticket, keno ticket, pull tab ticket, or instant bingo ticket, including any free Kansas Lottery ticket received as a result of the purchase of another Kansas Lottery ticket, and change from a purchase to the purchaser. The bill would specify any winnings from a lottery ticket vending machine could be redeemed only for cash or check by a lottery retailer or by cash, check, or other prize from the office of the Kansas Lottery.

The bill would specify no more than two lottery ticket vending machines could be located at each Kansas Lottery retailer selling location.

Instant Bingo; Vending Machines

The bill would remove language in the the definition of “instant bingo” prohibiting bingo games utilizing electronically generated or computer-generated tickets from an instant bingo vending machine. The definition would also be amended to specify that instant bingo games could be dispensed by an instant bingo vending machine.

The bill would also create a definition for “instant bingo vending machine,” as follows:

- “Instant bingo vending machine” would mean a machine or electronic device owned or leased by the Kansas Lottery in fulfillment of the Kansas Lottery’s obligations under an agreement between

the Kansas Lottery and a licensee entered into pursuant to the provisions of the bill. As specified in the definition, the sole purpose of an instant bingo vending machine would be to:

- Dispense a printed instant bingo ticket after a purchaser inserts cash or other form of consideration into the machine; and
- Allow purchasers to manually check the winning status of an instant bingo ticket.

The bill would state an instant bingo vending machine shall not:

- Provide a visual or audio representation of an electronic gaming machine or an electronic gaming machine;
- Visually or functionally have the same characteristics as an electronic gaming machine or an electronic gaming machine;
- Automatically determine or display the winning status of any dispensed instant bingo ticket;
- Extend or arrange credit for the purchase of an instant bingo ticket;
- Dispense any winnings;
- Dispense any prize;
- Dispense any evidence of a prize other than the instant bingo ticket;
- Provide free instant bingo tickets or any other item that can be redeemed for cash; or
- Dispense any other form of a prize to a purchaser.

Agreements Between Lottery and Nonprofit Organizations; Vending Machine Sales

The bill would authorize the Executive Director of the Kansas Lottery (Executive Director) to enter into agreements with licensed nonprofit organizations for the operation of instant bingo vending machines on the premises of nonprofit organizations. No more than two instant bingo vending machines could be located on the premises of the nonprofit organization.

These agreements would be required to provide for the remittance of gross receipts of instant bingo tickets in the vending machines to the nonprofit organization. All sales of instant bingo tickets in the vending machines would be considered sales by the nonprofit organization and proceeds from such sales would be remitted to the nonprofit organization.

Underage Purchasing of Lottery Tickets

The bill would provide any lottery ticket or share of a ticket purchased by an individual under the age of 18 would be null and void and could not be redeemed for a prize.

Lottery Sunset Provision

The bill would extend the existing sunset provision for the Kansas Lottery to July 1, 2037. Under current law, the Kansas Lottery will be abolished on July 1, 2022.

Transfers from the Lottery Operating Fund

The bill would authorize moneys in the Lottery Operating Fund be used for transfers to the Community Crisis Stabilization Centers Fund and Clubhouse Model Program Fund of the Kansas Department for Aging and Disability Services.

The bill would specify that, from FY 2018 through FY 2022, on or before the 10th day of each month, the Executive Director of the Lottery (Executive Director) would be required to certify the net profits from the sale of lottery tickets and shares in lottery ticket vending machines. Of that certified amount, moneys would be distributed from the Lottery Operating Fund, as follows:

- 75 percent would be transferred to the Community Crisis Stabilization Centers Fund (created by the bill); and
- 25 percent would be transferred to the Clubhouse Model Program Fund (created by the bill).

Such transfers could not exceed \$4.0 million in the aggregate for FY 2018 or \$8.0 million in the aggregate for FY 2019, FY 2020, FY 2021, and FY 2022.

State Debt Setoff Program

The bill would amend the State Debt Setoff Program (Program) in several ways.

The bill would require the Executive Director to enter into agreements with lottery gaming facility managers, racetrack gaming facility managers, and facility owner licensees for participation in the debt setoff program for the purpose of collecting debts. Each such contract would be required to include a provision agreeing to defend, indemnify, and hold harmless the manager or licensee for all claims,

demands, suits, actions, damages, judgments, costs, charges, and expenses brought or asserted against the manager or licensee arising from the manager or licensee's performance of an agreement to facilitate the collection of debts.

The bill would specify lottery gaming facility managers, racetrack gaming facility managers, and facility owner licensees would not be subject to civil, criminal, or administrative liability for actions taken under the bill, unless such actions were intentional, malicious, or wanton. The State would be required to indemnify the manager or licensee for expenses, losses, damages, and attorney fees arising from the performance of activities under the bill, and the manager or licensee would have all the protection of the State under the Kansas Tort Claims Act. The sole remedy at law for persons claiming wrongful withholding of prizes would be an appeal to the Department of Administration.

Lottery gaming facility managers, racetrack gaming facility managers, and facility owner licensees would be required to check the state debtor files before paying moneys on behalf of the State for any gambling winnings requiring completion of a federal tax form. If the person winning the prize is listed in the state debtor files, the prize would be withheld by the manager or licensee to the extent of such debt. Withheld moneys would be transmitted to the State Treasurer and deposited in the Setoff Clearing Fund.

Debts for child support enforced by the Kansas Department for Children and Families (DCF) under federal law would have the cost of collection paid by DCF. Collection costs would not be added to such debts.

The bill would not apply to Native American tribal gaming facilities.

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The second Conference Committee kept the following provisions intact, which were included in the first conference committee report:

- Amendments to debt setoff laws; and
- Provisions relating to transfers to the Community Crisis Stabilization Centers Fund and Clubhouse Model Program Fund from the Lottery Operating Fund.

The second Conference Committee also made the following changes:

- Extended the Lottery Sunset to 2037; and
- Made changes to provisions relating to sales of instant bingo tickets in vending machines:
 - Amended the definition of “instant bingo vending machine” to specify the term would mean a machine being operated pursuant to an agreement between the Kansas Lottery and a licensee;
 - Added “instant bingo vending machine” to the list of items that are not considered a lottery machine;
 - Amended the definition of “instant bingo” to specify that instant bingo games may be dispensed through instant bingo vending machines; and
 - Created a new section authorizing the Executive Director of the Kansas Lottery to enter into agreements with nonprofit organizations licensed under the Charitable Gaming Act for the operation of instant bingo vending machines.

Background

HB 2313 was introduced in the House Committee on Federal and State Affairs at the request of the Kansas Lottery. In the House Committee hearing, the Executive Director and Deputy Executive Director of the Kansas Lottery and representatives of the Petroleum Marketers and Convenience Store Association (PMCA) of Kansas and HyVee, Inc., appeared in support of the bill. Written-only proponent testimony was provided by Boyd Gaming Corporation; Cosentino's Food Stores; Johnson's General Stores; Murphy USA, Inc.; QuikTrip Corporation; and QuikTrip Corporation, Kansas City Division. No other testimony was provided.

The House Committee amended the bill by adding a provision concerning underage purchasing of lottery tickets and adopting a technical amendment. [*Note*: The Conference Committee retained this amendment.]

The House Committee of the Whole amended the bill by adding provisions related to:

- Transfers from the Lottery Operating Fund; and
- The State Debt Setoff Program (HB 2402). [*Note*: The Conference Committee retained these amendments.]

A hearing on HB 2402 has not been held and no background or fiscal information is available on the bill.

The Senate Committee on Federal and State Affairs held hearings on the subject of HB 2313, as introduced, which included hearings on SB 168 (abolishing the Kansas Lottery sunset provision) and SB 169 (lottery ticket vending machines). The Senate Committee did not hold a separate hearing on HB 2313, as amended by the House. In the Senate Committee hearings on SB 168 and SB 169, the Executive Director and Deputy Executive Director of the Kansas Lottery and representatives of PMCA of Kansas and

HyVee, Inc., appeared in support of the bills. Written-only proponent testimony was provided by Boyd Gaming Corporation; Cosentino's Food Stores; Johnson's General Stores; Murphy USA, Inc.; QuikTrip Corporation; and QuikTrip Corporation, Kansas City Division. No other testimony was provided.

The Senate Committee amended HB 2313 to make it effective upon publication in the *Kansas Register*. [Note: The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on HB 2313, as introduced, the Kansas Lottery indicates the use of lottery ticket vending machines at lottery retailer locations has the potential to increase sales by improving product availability and efficiently delivering lottery products to its customers. The Kansas Lottery indicates 38 other lottery jurisdictions in the United States use lottery ticket vending machines and this method of dispensing lottery products to customers is often requested by lottery retailers. The Kansas Lottery indicates allowing lottery ticket vending machines is estimated to increase the Kansas Lottery's year end transfer to the State General Fund (SGF) by \$4.0 million in FY 2018 and by \$8.0 million in FY 2019. The Kansas Lottery is unable to estimate the additional expenses for this program because it has not determined the most cost-efficient method to acquire lottery ticket vending machines and to place them at lottery retailer locations. In other lottery jurisdictions, lottery ticket vending machines have been purchased, leased, or acquired from a revenue-sharing agreement.

The Kansas Lottery also indicates eliminating the sunset provision would have no fiscal effect unless the sunset provision takes effect on July 1, 2022. The sunset date for the operation of the Kansas Lottery was created by the 1992 Legislature to occur on July 1, 1996, and was extended by the 1995 Legislature (until July 1, 2002), the 2001 Legislature (until July 1, 2008), and the 2007 Legislature (until July 1, 2022). The Kansas Lottery indicates, if it were to be abolished

on July 1, 2022, sales of online lottery games would end July 1, 2021, and instant lottery ticket sales would end January 1, 2022, to allow the required time for lottery players to redeem winning tickets. Proceeds from lottery ticket sales support economic development initiatives, prison construction and maintenance projects, local juvenile detention facilities, treatment of problem gambling and other addictions, veterans programs, and the SGF. On behalf of the State, the Kansas Lottery is also the owner of gaming operations at the four State-owned casinos, and contractual obligations with expanded lottery gaming facility managers extend past the current sunset date. Proceeds from State-owned gaming operations are used to reduce state debt, reduce Kansas Public Employees Retirement System actuarial liability, increase the number of engineering graduates from the state's universities, and treat problem gambling and other addictions.

The Kansas Lottery further indicates by eliminating the sunset date, the bill has the potential to reduce costs by allowing it to negotiate longer-term contracts with vendors. The Kansas Lottery states its vendors make significant financial investments to provide services and products to the Kansas Lottery. The sunset date may occur prior to expiration of the contract between the Kansas Lottery and its vendors or before the vendor has recovered initial upfront investments, which creates uncertainty in the contract negotiating process. Eliminating the sunset date would eliminate this uncertainty. [Note: the Conference Committee extended the sunset date to July 1, 2037.]

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.

lottery; vending machines; lottery tickets, instant bingo tickets; lottery sunset; debt setoff agreements; underage purchase of lottery tickets; community crisis stabilization centers; clubhouse model program

ccrb_hb2313_02_060217.odt