

Session of 2021

HOUSE BILL No. 2199

By Committee on Federal and State Affairs

2-2

vote to permit electronic gaming machines at a racetrack gaming facility in Sedgwick county;

1 AN ACT concerning gaming; relating to the Kansas expanded lottery act;
2 authorizing sports wagering; amending K.S.A. 46-2301, 74-8702, 74-
3 8710, 74-8711, 74-8716, 74-8718, 74-8733, 74-8734, 74-8741, 74-
4 8751, 74-8752, 74-8757, 74-8760, 74-8761, 75-6202, 75-6204, 75-
5 6217 and 79-4806 and K.S.A. 2020 Supp. 21-6403 and 21-6507 and
6 repealing the existing sections.

74-8743,

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) Sports wagering shall only be conducted in this
10 state in accordance with the provisions of the Kansas lottery act and the
11 Kansas expanded lottery act.

12 (b) The Kansas lottery may offer sports wagering through:

13 (1) Sports wagering retailers that have contracted with the Kansas
14 lottery pursuant to section 2, and amendments thereto, to conduct sports
15 wagering on behalf of the Kansas lottery;

16 (2) one or more lottery gaming facility managers or racetrack gaming
17 facility managers that have contracted with the Kansas lottery in
18 accordance with the Kansas expanded lottery act to operate and manage
19 sports wagering on behalf of the Kansas lottery, including, but not limited to,
20 sports wagering over the internet through websites and mobile device
21 applications through a licensed interactive sports wagering platform
22 approved by the Kansas lottery and the use of any such platform at the
23 primary facility of a professional sports team pursuant to a marketing
24 agreement entered into between the lottery gaming facility manager or
25 racetrack gaming facility manager and the professional sports team in
26 accordance with section 4, and amendments thereto; and

27 (3) one or more licensed interactive sports wagering platforms,
28 including the use of any such platform at the primary facility of a
29 professional sports team pursuant to a marketing agreement entered into
30 between the Kansas lottery and the professional sports team in accordance
31 with section 4, and amendments thereto.

32 New Sec. 2. (a) The executive director may select persons as sports
33 wagering retailers that the executive director deems are best able to serve
34 the public convenience and promote sports wagering in accordance with
35 marketing plans developed by the Kansas lottery. In the selection of sports
36 wagering retailers, the executive director shall consider factors such as

1 commenced in the district court of Shawnee county within 60 days from
2 the date the cause of action accrued.

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

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

10 New Sec. 15. If any federally recognized Indian tribe, as described in
11 K.S.A. 74-9802(f), and amendments thereto, submits a request for
12 negotiation of a gaming compact regarding sports wagering in accordance
13 with K.S.A. 46-2302, and amendments thereto, the governor, or the
14 governor's designated representative, shall negotiate in good faith with
15 such Indian tribe to enter into such gaming compact.

16 New Sec. 16. (a) Misuse of nonpublic sports information is placing or
17 causing to be placed, a bet or wager on a sports contest on the basis of
18 material nonpublic information relating to such bet or wager.

19 (b) Misuse of nonpublic sports information is a severity level 5,
20 nonperson felony.

21 (c) As used in this section:

22 (1) "On the basis of material nonpublic information" means the
23 person placing the bet or wager, or causing such bet or wager to be placed,
24 was aware of the material nonpublic information relating to such bet or
25 wager when the person placed the bet or wager, or caused such bet or
26 wager to be placed; and

27 (2) "sports contest" means the same as defined in K.S.A. 2020 Supp.
28 21-6507, and amendments thereto.

29 (d) The provisions of this section shall be a part of and supplemental
30 to the Kansas criminal code.

31 Sec. 17. K.S.A. 2020 Supp. 21-6403 is hereby amended to read as
32 follows: 21-6403. As used in K.S.A. 2020 Supp. 21-6403 through 21-
33 6409, and amendments thereto:

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

37 (1) Bona fide business transactions which are valid under the law of
38 contracts including, but not limited to, contracts for the purchase or sale at
39 a future date of securities or other commodities, and agreements to
40 compensation for loss caused by the happening of the chance including,
41 but not limited to, contracts of indemnity or guaranty and life or health and
42 accident insurance;

43 (2) offers of purses, prizes or premiums to the actual contestants in

**New Sec. 15. See
Attachment 1
Redesignate sections**

1 Sec. 18. K.S.A. 2020 Supp. 21-6507 is hereby amended to read as
2 follows: 21-6507. (a) Sports bribery is:

3 (1) Conferring, or offering or agreeing to confer, any benefit upon a
4 sports participant with intent to influence such participant not to give such
5 participant's best efforts in a sports contest;

6 (2) conferring or offering or agreeing to confer, any benefit upon a
7 sports official with intent to influence such official to perform such
8 official's duties improperly;

9 (3) accepting, agreeing to accept or soliciting by a sports participant
10 of any benefit from another person upon an understanding that such sports
11 participant will thereby be influenced not to give such participant's best
12 efforts in a sports contest; or

13 (4) accepting, agreeing to accept or soliciting by a sports official any
14 benefit from another person upon an understanding that such official will
15 perform such official's duties improperly.

16 (b) Sports bribery as defined in:

17 (1) Subsection (a)(1) or (a)(2) is a severity level 9, nonperson felony;
18 ~~and~~

19 (2) subsection (a)(3) or (a)(4) is a class A nonperson misdemeanor;
20 *and*

21 (3) *subsection (a)(1) through (a)(4), if committed with the intent to*
22 *influence a betting outcome of a sports contest in order to obtain financial*
23 *gain, in connection with betting or wagering on a sports contest, is a*
24 *severity level 5, nonperson felony.*

25 (c) As used in this section and K.S.A. 2020 Supp. 21-6508, and
26 amendments thereto:

27 (1) "Sports contest" means any professional or amateur sports or
28 athletic game or contest viewed by the public;

29 (2) "sports participant" means any person who participates or expects
30 to participate in a sports contest as a player, contestant or member of a
31 team, or as a coach, manager, trainer or other person directly associated
32 with a player, contestant or team; and

33 (3) "sports official" means any person who acts or expects to act in a
34 sports contest as an umpire, referee, judge or otherwise to officiate at a
35 sports contest.

36 Sec. 19. K.S.A. 46-2301 is hereby amended to read as follows: 46-
37 2301. As used in ~~this act~~ *K.S.A. 46-2301 through 46-2304, and*
38 *amendments thereto, and section 15, and amendments thereto:*

39 (a) "Class III gaming" has the meaning provided by the Indian
40 gaming regulatory act (25 U.S.C. 2701 et seq.).

41 (b) "Gaming compact" means a tribal-state compact regarding class
42 III gaming as provided by section 11 of the Indian gaming regulatory act
43 (25 U.S.C. 2710).

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

5 (3) eligibility requirements for employees, contractors or agents of a
6 racetrack gaming facility manager who will have responsibility for or
7 involvement with electronic gaming machines or for the handling of cash
8 or tokens;

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

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

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

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

19 ~~(e)~~(f) A person who is the manager of a lottery gaming facility in a
20 gaming zone shall not be eligible to be the manager of the racetrack
21 gaming facility in the same zone.

22 ~~(f)~~(g) A racetrack gaming facility management contract shall not
23 constitute property, nor shall it be subject to attachment, garnishment or
24 execution, nor shall it be alienable or transferable, except upon approval
25 by the executive director, nor shall it be subject to being encumbered or
26 hypothecated.

27 *(h) If a racetrack gaming facility manager agrees to operate and*
28 *manage sports wagering, the Kansas lottery shall be the licensee and*
29 *owner of all software programs used in conducting sports wagering, and*
30 *the racetrack gaming facility manager, on behalf of the state, shall*
31 *purchase or lease for the Kansas lottery any equipment or other property*
32 *necessary for operating and managing sports wagering. All sports*
33 *wagering shall be subject to the ultimate control of the Kansas lottery in*
34 *accordance with the Kansas expanded lottery act.*

35 Sec. 28. K.S.A. 74-8751 is hereby amended to read as follows: 74-
36 8751. (a) The Kansas racing and gaming commission, through rules and
37 regulations, shall establish:

38 ~~(a)~~(1) A certification requirement, and enforcement procedure, for
39 officers, directors, key employees and persons directly or indirectly
40 owning a ~~0.5%~~ 5% or more interest in a lottery gaming facility manager or
41 racetrack gaming facility manager. Such certification requirement shall
42 include compliance with such security, fitness and background
43 investigations and standards as the executive director of the Kansas racing

Sec. 29. K.S.A. 74-8743 is
hereby amended to read as
follows: See Attachment 2

Redesignate sections

1 manager-~~or~~, facility owner licensee *or sports wagering retailer* shall not be
2 subject to any civil, criminal or administrative liability for any actions
3 taken pursuant to this section, unless such actions are intentional,
4 malicious or wanton by such lottery gaming facility manager, racetrack
5 gaming facility manager-~~or~~, facility owner licensee *or sports wagering*
6 *retailer*; or employees or agents thereof. The state shall indemnify the
7 lottery gaming facility manager, racetrack gaming facility manager-~~or~~,
8 facility owner licensee *or sports wagering retailer* for any and all
9 expenses, losses, damages and attorney fees that arise directly or indirectly
10 from the performance of activities related to this section. For the purposes
11 of the fair debt collection practices act, and any other federal or state law,
12 the lottery gaming facility manager, racetrack gaming facility manager-~~or~~,
13 facility owner licensee *or sports wagering retailer* shall have all of the
14 protections of the state under the Kansas tort claims act, K.S.A. 75-6101 et
15 seq., and amendments thereto. The sole remedy at law for persons who
16 claim prizes were wrongfully withheld pursuant to this section shall be to
17 submit an appeal to the department of administration pursuant to K.S.A.
18 75-6201 et seq., and amendments thereto.

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

24 (d) Nothing in this section shall apply to Native American tribal
25 gaming facilities.

26 (e) This section shall be *a* part of and supplemental to the state debt
27 setoff program.

28 Sec. 36. K.S.A. 79-4806 is hereby amended to read as follows: 79-
29 4806. On July 1 of each year or as soon thereafter as sufficient moneys are
30 available, ~~\$80,000~~ \$100,000 credited to the state gaming revenues fund
31 shall be transferred and credited to the problem gambling *and addictions*
32 grant fund established by K.S.A. 79-4805, and amendments thereto.

74-8743,

33 Sec. 37. K.S.A. 46-2301, 74-8702, 74-8710, 74-8711, 74-8716, 74-
34 8718, 74-8733, 74-8734, 74-8741, ~~74-8751~~, 74-8752, 74-8757, 74-8760,
35 74-8761, 75-6202, 75-6204, 75-6217 and 79-4806 and K.S.A. 2020 Supp.
36 21-6403 and 21-6507 are hereby repealed.

37 Sec. 38. This act shall take effect and be in force from and after its
38 publication in the statute book.

ATTACHMENT 1

New Sec. 15. (a) Prior to the execution of any racetrack gaming facility management contract for the management of a racetrack gaming facility, the executive director shall provide written notice to any lottery gaming facility manager managing a lottery gaming facility located in the same gaming zone as such proposed racetrack gaming facility. Such notice shall state the executive director's intent to enter into such contract and the parties to the proposed contract.

(b) No action against the state of Kansas or any other person or party for specific performance, anticipatory breach or breach of contract, the basis of which is that a proposed racetrack gaming facility management contract or the election authorized under K.S.A. 74-8743, and amendments thereto, violates the provisions of K.S.A. 74-8734(h)(19) or 74-8741(c)(4), and amendments thereto, or that such racetrack gaming facility management contract or the election authorized under K.S.A. 74-8743, and amendments thereto, creates a material breach of a lottery gaming facility manager's management contract with the Kansas lottery, including any claim for reimbursement of privilege fees and interest thereon, shall be deemed to have accrued until the lottery gaming facility manager receives written notice from the executive director pursuant to subsection (a). Any such action shall be commenced within 60 days after receipt of such written notice and shall be filed as an original action in the supreme court, which shall have original jurisdiction for determination of any claims made and damages related thereto.

(c) (1) No claim for equitable relief, including injunctive relief, maybe brought in any action filed pursuant to this section.

(2) No claim may be brought in any action filed pursuant to this section except by the lottery gaming facility manager for the lottery gaming facility located in the same gaming zone as the proposed racetrack gaming facility.

(3) No claim arising from the election authorized under K.S.A. 74-8743, and amendments thereto, may be brought in any action filed pursuant to this section except by the lottery gaming facility manager for the lottery gaming facility located in the south central Kansas gaming zone.

(d) Any monetary damages awarded in any action brought pursuant to this section shall not exceed an amount equal to the privilege fee paid by the lottery gaming facility manager filing such action, plus any interest from the date such action accrued as specified in subsection (b).

(e) (1) If no action is filed pursuant to subsection (b), the executive director may execute the proposed racetrack gaming facility management contract.

(2) If an action is properly filed, the executive director shall not execute any such management contract until such time as the supreme court issues a final order in such action and such order does not prohibit the executive director from executing such management contract.

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

(g) The provisions of this section shall be a part of and supplemental to the Kansas expanded lottery act.

ATTACHMENT 2

Sec. 29. K.S.A. 74-8743 is hereby amended to read as follows: 74-8743. (a) The board of county commissioners of each county where there is ~~a~~ an existing or former parimutuel licensee location may, at any time by resolution, submit to the qualified voters of the county a proposition to permit the placement of electronic gaming machines in the county as provided in this section, or, upon the presentation of a valid petition signed by not fewer than 5,000 qualified voters of the county, shall submit such proposition to the qualified voters of the county ~~a~~ ~~proposition to permit the placement of electronic gaming machines in the county as provided in this section.~~ The proposition shall be submitted or resubmitted to the voters ~~at a~~ of the county at any primary, general election or special election called by the board of county commissioners for that purpose ~~and.~~ Such election shall be held not more than ~~180~~ 150 days after the ~~effective date of this act~~ adoption of a resolution by the board of county commissioners or the receipt of a valid petition for submission of such a proposition.

(b) Upon the adoption of a resolution or the receipt of a valid petition calling for an election pursuant to this section in Sedgwick county, the county election officer shall cause the ~~following~~ proposition to be placed on the ballot ~~at the election called for that purpose: "Shall the Kansas Lottery be authorized to place electronic gaming machines in _____ county?"~~ as a question in substantial compliance with the following: "Shall the operation of electronic gaming machines by the Kansas lottery be authorized at the former parimutuel licensee location in Sedgwick county, commonly known as Wichita greyhound park?"

(c) If a majority of the votes cast and counted at any such election is in favor of approving the placement of electronic gaming machines in the county, the Kansas lottery ~~may~~

shall place and operate electronic gaming machines at a parimutuel licensee location in the county, subject to the provisions of this act. If a majority of the votes cast and counted at ~~an~~ any such election ~~under this section~~ is against permitting placement of electronic gaming machines in the county, the Kansas lottery shall not place or operate electronic gaming machines at a parimutuel licensee location in the county, unless and until approved by a majority of votes cast in a subsequent election brought and conducted in accordance with this section. The county election officer shall transmit a copy of the certification of the results of the election to the executive director.

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

(e) ~~(1) The lottery commission may waive the~~ There shall be no requirement ~~that~~ for an election to be held pursuant to this section if the lottery commission determines that after December 31, 2004, and ~~before the effective date of this act~~ prior to July 1, 2021, the county has held an election of qualified voters pursuant to the county's home rule authority: ~~(1)(A)~~ (A) At which the ballot question was in ~~substantial~~ general compliance with the requirements of this section in effect at the time of such election; ~~(2) which~~ (B) that was administered by the county election officer in a manner consistent with the requirements of state election law; and ~~(3)(C)~~ (C) at which a majority of the votes cast and counted was in favor of the proposition.

(2) Wyandotte and Crawford counties are hereby deemed to have satisfied the requirements of this subsection and no subsequent election shall be required prior to the placement of electronic gaming machines in such counties.

(f) The question of the placement of electronic gaming machines in a county may be submitted ~~at the same election as the question of operation of a lottery gaming facility in the~~

~~county under K.S.A. 74-8737, and amendments thereto~~ to the qualified voters of the county in accordance with the provisions of this section at any time, except if such a proposition has been approved by a majority of the qualified voters of such county, then the question shall not be submitted at any subsequent election.