

1 **As Amended by House Committee**

2 *Session of 2001*

3
4 **HOUSE BILL No. 2109**

5
6 By Committee on Federal and State Affairs

7
8 1-23

9
10 AN ACT concerning lotteries and lottery machines; amending K.S.A. 74-
11 8702 and 74-8722 and K.S.A. 2000 Supp. 74-8710, 74-8718, 74-9802
12 and 79-4701 and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 74-8702 is hereby amended to read as follows: 74-
16 8702. As used in this act, unless the context otherwise requires:

17 (a) "Commission" means the Kansas lottery commission.

18 (b) "Executive director" means the executive director of the Kansas
19 lottery.

20 (c) "Gaming equipment" means any electric, electronic or mechani-
21 cal device or other equipment unique to the Kansas lottery used directly
22 in the operation of any lottery and in the determination of winners pur-
23 suant to this act.

24 (d) "Kansas lottery" means the state agency created by this act to
25 operate a lottery or lotteries pursuant to this act.

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

28 (f) "Lottery" or "state lottery" means the lottery or lotteries operated
29 pursuant to this act.

30 (g) "Major procurement" means any gaming product or service, in-
31 cluding but not limited to facilities, advertising and promotional services,
32 annuity contracts, prize payment agreements, consulting services, equip-
33 ment, tickets and other products and services unique to the Kansas lot-
34 tery, but not including materials, supplies, equipment and services com-
35 mon to the ordinary operations of state agencies.

36 (h) "Person" means any natural person, association, corporation or
37 partnership.

38 (i) "Prize" means any prize paid directly by the Kansas lottery pur-
39 suant to its rules and regulations.

40 (j) "Share" means any intangible manifestation authorized by the
41 Kansas lottery to prove participation in a lottery game.

42 (k) "Ticket" means any tangible evidence issued by the Kansas lottery
43 to prove participation in a lottery game.

1 (l) “Vendor” means any person who has entered into a major pro-
2 curement contract with the Kansas lottery.

3 (m) “Returned ticket” means any ticket which was transferred to a
4 lottery retailer, which was not sold by the lottery retailer and which was
5 returned to the Kansas lottery for refund by issuance of a credit or
6 otherwise.

7 (n) “Video lottery machine” or “lottery machine” means:

8 (1) Any electronic video game machine that, upon insertion of cash,
9 is available to play or simulate the play of a video game authorized by the
10 commission, including but not limited to bingo, poker, black jack and
11 keno, and which uses a video display and microprocessors and in which,
12 by chance, the player may receive free games or credits that can be re-
13 deemed for cash;

14 (2) *any machine or device that allows a player to insert cash or other*
15 *form of consideration, and may deliver, as the result of an element of*
16 *chance, regardless of the skill required by the player, a prize or evidence*
17 *of a prize, including, but not limited to, an interactive lottery machine or*
18 *device or a noninteractive lottery machine or device;*

19 (3) *any interactive lottery machine or device in which the prize is*
20 *determined by both chance and player or players’ skill and in which the*
21 *player or players can influence the prize through one-on-one interaction*
22 *with the machine or device, including, but not limited to, a machine or*
23 *device on which lottery games, such as poker and blackjack, are played;*
24 *or*

25 (4) *any noninteractive lottery machine or device in which the prize*
26 *is determined only by chance, including, but not limited to, any slot ma-*
27 *chine, bingo, keno ticket dispenser, lottery ticket dispenser, pull-tab dis-*
28 *pensers and instant bingo dispensers.*

29 Sec. 2. K.S.A. 2000 Supp. 74-8710 is hereby amended to read as
30 follows: 74-8710. (a) The commission, upon the recommendation of the
31 executive director, shall adopt rules and regulations governing the estab-
32 lishment and operation of a state lottery as necessary to carry out the
33 purposes of this act. Temporary rules and regulations may be adopted by
34 the commission without being subject to the provisions and requirements
35 of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
36 subject to approval by the attorney general as to legality and shall be filed
37 with the secretary of state and published in the Kansas register. Tem-
38 porary and permanent rules and regulations may include but shall not be
39 limited to:

40 (1) Subject to the provisions of subsection (b), the types of lottery
41 games to be conducted, including but not limited to instant lottery, on-
42 line and traditional games, but not including games on video lottery ma-
43 chines or lottery machines.

1 (2) The manner of selecting the winning tickets or shares, except that,
2 if a lottery game utilizes a drawing of winning numbers, a drawing among
3 entries or a drawing among finalists, such drawings shall always be open
4 to the public and shall be recorded on both video and audio tape.

5 (3) The manner of payment of prizes to the holders of winning tickets
6 or shares.

7 (4) The frequency of the drawings or selections of winning tickets or
8 shares.

9 (5) The type or types of locations at which tickets or shares may be
10 sold.

11 (6) The method or methods to be used in selling tickets or shares.

12 (7) Additional qualifications for the selection of lottery retailers and
13 the amount of application fees to be paid by each.

14 (8) The amount and method of compensation to be paid to lottery
15 retailers, including special bonuses and incentives.

16 (9) Deadlines for claims for prizes by winners of each lottery game.

17 (10) Provisions for confidentiality of information submitted by ven-
18 dors pursuant to K.S.A. 74-8705, and amendments thereto.

19 (11) Information required to be submitted by vendors, in addition to
20 that required by K.S.A. 74-8705, and amendments thereto.

21 (12) The major procurement contracts or portions thereof to be
22 awarded to minority business enterprises pursuant to subsection (a) of
23 K.S.A. 74-8705, and amendments thereto, and procedures for the award
24 thereof.

25 *(b) The lottery shall adopt rules and regulations concerning the game*
26 *of keno. Such rules and regulations shall require that the amount of time*
27 *which elapses between **the start of** games shall not be less than five*
28 *minutes.*

29 ~~(c)~~ *(c) No new lottery game shall commence operation after the ef-*
30 *fective date of this act unless first approved by the governor or, in the*
31 *governor's absence or disability, the lieutenant governor. The provisions*
32 *of this subsection shall not be construed to authorize the approval of*
33 *games on video lottery machines or lottery machines.*

34 Sec. 3. K.S.A. 2000 Supp. 74-8718 is hereby amended to read as
35 follows: 74-8718. (a) It is unlawful for:

36 (1) Any person to sell a lottery ticket or share at a price other than
37 that fixed by rules and regulations adopted pursuant to this act;

38 (2) any person other than a lottery retailer authorized by the Kansas
39 lottery to sell or resell any lottery ticket or share; ~~or~~

40 (3) any person to sell a lottery ticket or share to any person, knowing
41 such person to be under 18 years of age; *or*

42 (4) *any person to sell a lottery ticket or share by electronic mail, the*
43 *internet or telephone.*

1 (b) *No lottery retailer shall accept payment for a lottery ticket or*
2 *share in the form of a credit card.*

3 ~~(b)~~ (c) (1) Violation of this section is a class A nonperson misde-
4 meanor upon conviction for a first offense; and

5 (2) violation of this section is a severity level 9, nonperson felony upon
6 conviction for a second or subsequent offense.

7 Sec. 4. K.S.A. 74-8722 is hereby amended to read as follows: 74-
8 8722. (a) The Kansas lottery shall not recruit for employment or as a
9 volunteer any person under 18 years of age for the purpose of appearing,
10 being heard or being quoted in any advertising or promotion of any lottery
11 in any electronic or print media.

12 (b) *The Kansas lottery shall not advertise or promote any lottery by*
13 ~~*any electronic media*~~ **electronic mail**, *the internet or telephone.*

14 (c) *All advertising and marketing practices of the Kansas lottery shall*
15 *meet or exceed the standards of the North American association of state*
16 *and provincial lotteries (NASPL) which are in effect on July 1, 2001, or*
17 *any later version as adopted by the commission in rules and regulations.*

18 Sec. 5. K.S.A. 2000 Supp. 74-9802 is hereby amended to read as
19 follows: 74-9802. As used in the tribal gaming oversight act:

20 (a) “Class III gaming” means all tribal gaming activities defined as
21 class III gaming by the Indian gaming regulatory act (25 U.S.C. 2701 *et*
22 *seq.*), as in effect on the effective date of this act.

23 (b) “Executive director” means the executive director of the state
24 gaming agency.

25 (c) “Tribal gaming” means any class III gaming conducted pursuant
26 to a tribal-state gaming compact. “Tribal gaming” does not include games
27 on video lottery machines *or lottery machines*, as defined by K.S.A. 74-
28 8702, and amendments thereto, that the Kansas lottery is prohibited from
29 conducting under K.S.A. 74-8704, and amendments thereto.

30 (d) “Tribal gaming commission” means a commission created by a
31 native American tribe in accordance with a tribal-state gaming compact.

32 (e) “Tribal gaming facility” means a facility where tribal gaming is
33 conducted or operated.

34 (f) “Tribal-state gaming compact” means a compact entered into be-
35 tween the state of Kansas and the Iowa Tribe of Kansas and Nebraska,
36 the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the
37 Prairie Band Potawatomi Nation in Kansas or the Sac and Fox Nation of
38 Missouri in Kansas and Nebraska with respect to the tribe’s authority to
39 engage in class III gaming on the tribe’s reservation property in the state
40 of Kansas.

41 Sec. 6. K.S.A. 2000 Supp. 79-4701 is hereby amended to read as
42 follows: 79-4701. As used in this act:

43 (a) “Act” means the bingo act.

1 (b) “Administrator” means the administrator of charitable gaming
2 designated by the secretary pursuant to K.S.A. 2000 Supp. 79-4717, and
3 amendments thereto.

4 (c) “Bingo” or “games of bingo” means the games of call bingo and
5 instant bingo.

6 *“Bingo” or “games of bingo” shall not include games played on a video
7 lottery machine or lottery machine.*

8 (d) “Bingo card” or “card” means a reusable card which is marked
9 off into 25 squares arranged in five horizontal rows of five squares each
10 and five vertical rows of five squares each, with each square being des-
11 ignated by a number, letter or combination of numbers and letters. Only
12 the center square shall be designated with the word “free”. No two cards
13 in the same game shall be identical.

14 (e) “Bingo face” or “face” means a piece of paper which is marked
15 off into 25 squares arranged in five horizontal rows of five squares each
16 and five vertical rows of five squares each, with each square being des-
17 ignated by a number, letter or combination of numbers and letters. Only
18 the center square shall be designated with the word “free”. No two bingo
19 faces in the same game shall be identical. Faces shall be disposable and
20 shall not be reused after the game in which a player has used such face.

21 (f) “Call bingo” means a game in which: (1) Each player pays a
22 charge; (2) a prize or prizes are awarded to the winner or winners; (3)
23 each player receives one or more cards or faces; and (4) each player covers
24 the squares on each card or face as the operator of such game announces
25 a number, letter or combination of numbers and letters appearing on an
26 object selected by chance, either manually or mechanically from a recep-
27 tacle in which have been placed objects bearing numbers, letters or com-
28 binations of numbers and letters corresponding to the system used for
29 designating the squares. The winner of each game is the player or players
30 first covering properly a predetermined and announced pattern of squares
31 upon the card or face being used by such player or players.

32 “Call bingo” shall include any regular, special, mini and progressive
33 game of bingo.

34 “Call bingo” shall not include any game utilizing an electronic or com-
35 puterized card system.

36 (g) “Department” means the department of revenue.

37 (h) “Director” means the director of taxation.

38 (i) “Distributor” means any person or entity that sells or distributes
39 instant bingo tickets, bingo cards or bingo faces.

40 (j) “Instant bingo” means a game: (1) In which each player pays a
41 charge; (2) in which a prize or prizes are awarded to the winner or win-
42 ners; (3) in which each player receives one or more disposable pull-tab
43 or break-open tickets which accord a player an opportunity to win some-

1 thing of value by opening or detaching the paper covering from the back
2 of the ticket to reveal a set of numbers, letters, symbols or configurations,
3 or any combination thereof; (4) which is conducted by a licensee under
4 this act; (5) the conduct of which must be in the presence of the players;
5 and (6) which does not utilize any dice, normal playing cards, instant ticket
6 with a removable latex covering or slot machines. Winners of instant bingo
7 shall be determined either (1) by a combination of letters, numbers or
8 symbols determined and posted prior to the sale of instant bingo tickets
9 or (2) by matching a letter, number or symbol under a tab of an instant
10 bingo ticket with the winning letter, number or symbol in a designated
11 call game of bingo during the same session.

12 “Instant bingo” shall not include any game utilizing electronically gen-
13 erated or computer-generated tickets.

14 (k) “Lessor” means the owner, coowner, lessor or sublessor of prem-
15 ises upon which a licensee is permitted to manage, operate or conduct
16 games of bingo, whether or not a written lease has been entered into and
17 submitted to the administrator as required in subsection (c) of K.S.A. 79-
18 4703, and amendments thereto, and includes all political subdivisions and
19 other public agencies.

20 (l) “Licensee” means any nonprofit organization holding a license to
21 manage, operate or conduct games of bingo pursuant to K.S.A. 79-4701
22 *et seq.*, and amendments thereto.

23 (m) “Mini bingo” means a game of call bingo in which the prizes
24 awarded are not less than 50% of the gross receipts derived from the sale
25 of cards or faces for participation in the game, but not more than \$50.

26 (n) “Net proceeds” means the gross receipts received by the licensee
27 from charges imposed on players for participation in games of bingo and
28 any admission fees or charges less amounts actually paid as prizes in
29 games of bingo and any tax payable by the licensee.

30 (o) “Nonprofit religious organization” means any organization,
31 church, body of communicants, or group, gathered in common member-
32 ship for mutual support and edification in piety, worship, and religious
33 observances, or a society of individuals united for religious purposes at a
34 definite place and of which no part of the net earnings inures to the
35 benefit of any private shareholder or individual member of such organi-
36 zation, and which religious organization maintains an established place of
37 worship within this state and has a regular schedule of services or meet-
38 ings at least on a weekly basis and has been determined by the adminis-
39 trator to be organized and created as a bona fide religious organization
40 and which has been exempted from the payment of federal income taxes
41 as provided by section 501(c)(3) or section 501(d) of the federal internal
42 revenue code of 1986, as amended, or determined to be organized and
43 operated as a bona fide nonprofit religious organization by the

1 administrator.

2 (p) “Nonprofit charitable organization” means any organization
3 which is organized and operated for:

4 (1) The relief of poverty, distress, or other condition of public con-
5 cern within this state; or

6 (2) for financially supporting the activities of a charitable organization
7 as defined in paragraph (1); or

8 (3) for conferring direct benefits on the community at large; and of
9 which no part of the net earnings inures to the benefit of any private
10 shareholder or individual member of such organization and has been de-
11 termined by the administrator to be organized and operated as a bona
12 fide charitable organization and which has been exempted from the pay-
13 ment of federal income taxes as provided by sections 501(c)(3), 501(c)(4),
14 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of
15 1986, as amended, or determined to be organized and operated as a bona
16 fide nonprofit charitable organization by the administrator.

17 (q) “Nonprofit fraternal organization” means any organization within
18 this state which exists for the common benefit, brotherhood, or other
19 interests of its members and is authorized by its written constitution,
20 charter, articles of incorporation or bylaws to engage in a fraternal, civic
21 or service purpose within this state and has been determined by the ad-
22 ministrator to be organized and operated as a bona fide fraternal organ-
23 ization and which has been exempted from the payment of federal income
24 taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal
25 internal revenue code of 1986, as amended, or determined to be organ-
26 ized and operated as a bona fide nonprofit fraternal organization by the
27 administrator.

28 (r) “Nonprofit educational organization” means any public or private
29 elementary or secondary school or institution of higher education which
30 has been determined by the administrator to be organized and operated
31 as a bona fide educational organization and which has been exempted
32 from the payment of federal income taxes as provided by section 501(c)(3)
33 of the federal internal revenue code of 1986, as amended, or determined
34 to be organized and operated as a bona fide nonprofit educational organ-
35 ization by the administrator.

36 (s) “Nonprofit veterans’ organization” means any organization within
37 this state or any branch, lodge, or chapter of a national or state organi-
38 zation within this state, the membership of which consists exclusively of
39 individuals who qualify for membership because they were or are mem-
40 bers of the armed services or forces of the United States, or an auxiliary
41 unit or society of such a nonprofit veterans’ organization the membership
42 of which consists exclusively of individuals who were or are members of
43 the armed services or forces of the United States, or are cadets, or are

1 spouses, widows or widowers of individuals who were or are members of
2 the armed services or forces of the United States, and of which no part
3 of the net earnings inures to the benefit of any private shareholder or
4 individual member of such organization, and has been determined by the
5 administrator to be organized and operated as a bona fide veterans' or-
6 ganization and which has been exempted from the payment of federal
7 income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal
8 internal revenue code of 1986, as amended, or determined to be organ-
9 ized and operated as a bona fide nonprofit veterans' organization by the
10 administrator.

11 (t) "Person" means any natural person, corporation, partnership, trust
12 or association.

13 (u) "Premises" means any room, hall, building, enclosure or outdoor
14 area used for the management, operation or conduct of a game of bingo
15 by a licensee.

16 (v) "Progressive bingo" means a game of call bingo in which either
17 the established prize amount or number of bingo balls or objects called,
18 or both, may be increased from one session to the next scheduled session
19 if no player completes the required pattern within the specified number
20 of bingo balls or objects drawn. The player's opportunity to win shall
21 increase as the prize amount increases.

22 (w) "Regular game of bingo" means any game of bingo which is sub-
23 ject to the 25 game limit, \$50 prize limit and the \$1 charge limit imposed
24 under subsections (g), (h) and (j) of K.S.A. 79-4706, and amendments
25 thereto.

26 (x) "Secretary" means the secretary of revenue or the secretary's
27 designee.

28 (y) "Session" means a day on which a licensee conducts games of
29 bingo.

30 (z) "*Video lottery machine*" or "*lottery machine*" shall have the mean-
31 ing ascribed thereto by K.S.A. 74-8702, and amendments thereto.

32 Sec. 7. K.S.A. 74-8702 and 74-8722 and K.S.A. 2000 Supp. 74-8710,
33 74-8718, 74-9802 and 79-4701 are hereby repealed.

34 Sec. 8. This act shall take effect and be in force from and after its
35 publication in the statute book.

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