

SENATE BILL No. 208

By Senator Corbin

2-12

AN ACT concerning lotteries; authorizing electronic gaming machines at certain locations; amending K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp. 19-101a and 79-4805 and repealing the existing sections.

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

New Section 1. Sections 1 through 25, and amendments thereto, shall be known as the Kansas electronic gaming law and shall be part of and supplemental to the Kansas lottery act.

New Sec. 2. (a) The executive director may contract with parimutuel licensees for the operation and management of electronic gaming machines at parimutuel licensee locations. Such contracts shall be subject to the provisions of this act and rules and regulations adopted pursuant to this act. Such contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(b) The executive director shall select as lottery gaming machine contractors any parimutuel licensees which the executive director deems able to serve the public convenience and promote marketing plans developed by the Kansas lottery. In the selection of lottery gaming machine contractors, the executive director shall consider factors such as financial responsibility, security of the licensee location, integrity, reputation, volume of expected sales and such other factors the executive director deems appropriate.

(c) The executive director may charge an administrative application fee, reasonably related to the costs of processing the application, to any person applying to become lottery gaming machine contractors.

(d) A contract shall not constitute property and shall not be subject to attachment, garnishment or execution unless approved by the executive director, a contract shall not be alienable, transferable or subject to encumbrance. No interest in the contract shall descend by the laws of testate or intestate devolution. Except as provided by this subsection, any interest therein shall cease and expire upon the death of the licensee or interest holders in the licensee. Executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee may continue to operate pursuant to the contract under

1 order of the appropriate court for no longer than one year after the death,
2 bankruptcy or insolvency of such licensee.

3 (e) Each lottery gaming machine contractor shall be issued a lottery
4 gaming machine contractor certificate which shall be conspicuously dis-
5 played at the place where the lottery gaming machine contractor is au-
6 thorized to operate and manage electronic gaming machines.

7 (f) To be selected as a lottery gaming machine contractor, an appli-
8 cant shall:

9 (1) Have sufficient financial resources to support the activities re-
10 quired under this act;

11 (2) be current in payment of all taxes, interest and penalties owed to
12 any taxing subdivision where the parimutuel licensee is located; and

13 (3) be current in filing all applicable tax returns and in payment of
14 all taxes, interest and penalties owed to the state of Kansas, excluding
15 items under formal appeal pursuant to applicable statutes or for which
16 an agreement for the payment of such taxes, interest or penalties has
17 been entered into by the applicant and the department of revenue and
18 the applicant is current in the payments under such agreement.

19 (g) The lottery gaming machine contractor, at its own expense, shall
20 purchase for the Kansas lottery a license for all software programs used
21 by such lottery gaming machine contractor to operate electronic gaming
22 machines. The Kansas lottery shall be the licensee and owner of all such
23 software programs and shall sublicense such software programs to each
24 lottery gaming machine contractor. A parimutuel licensee may own or
25 lease, on behalf of the Kansas lottery and at the licensee's own expense,
26 electronic gaming machines for placement at the parimutuel licensee lo-
27 cation or the Kansas lottery with the consent of the parimutuel licensee
28 may lease such machines for placement at the parimutuel licensee loca-
29 tion. If the Kansas lottery leases such machines, the parimutuel licensee
30 shall reimburse the Kansas lottery for all expenses related to leasing, in-
31 stall, operating and managing such machines. Electronic gaming ma-
32 chines purchased or leased by the lottery gaming machine contractor, at
33 its own expense, may be installed, operated or managed, owned or leased
34 by a lottery gaming machine contractor or by a technology provider under
35 contract with the lottery gaming machine contractor as provided by this
36 act. All electronic gaming machines under this act shall be subject to the
37 ultimate control of the Kansas lottery in accordance with this act. Each
38 specific type of electronic gaming machine shall be approved by the Kan-
39 sas lottery in accordance with K.S.A. 74-8710, and amendments thereto.
40 The use of progressive electronic gaming machines is expressly permitted.

41 (h) Each contract between the Kansas lottery and a lottery gaming
42 machine contractor shall provide that the Kansas lottery shall receive all
43 of the net machine income derived from the operation of electronic gam-

1 ing machines at the parimutuel licensee location.

2 (i) Contracts authorized by this section may include provisions relat-
3 ing to:

4 (1) Accounting procedures to determine the net machine income,
5 unclaimed merchandise and credits.

6 (2) The location and operation of electronic gaming machines at the
7 parimutuel licensee location.

8 (3) Minimum requirements for an electronic gaming machine con-
9 tractor to provide qualified oversight, security and supervision of the op-
10 eration of electronic gaming machines at the parimutuel licensee location,
11 including the use of qualified personnel with experience in applicable
12 technology.

13 (4) The eligibility requirements for employees of a lottery gaming
14 machine contractor who will have responsibility for the handling of cash
15 or tokens. Such requirements may include a background investigation
16 performed by the Kansas racing and gaming commission and licensure of
17 any key gaming employee.

18 (5) Provision for termination of the contract by either party for cause,
19 including but not limited to, failure of the lottery gaming machine con-
20 tractor to maintain a parimutuel license in accordance with K.S.A. 74-
21 8801 *et seq.*, and amendments thereto, failure of the lottery gaming ma-
22 chine contractor to collect and remit net machine income.

23 (6) Any other provision deemed necessary by the parties.

24 (j) The initial term of a contract pursuant to this section shall be not
25 less than the remaining term of the Kansas lottery. Such contract may be
26 renewed with each extension of the Kansas lottery as provided in K.S.A.
27 74-8723, and amendments thereto.

28 (k) (1) The Kansas lottery shall examine prototypes of electronic
29 gaming machines and shall notify the Kansas racing and gaming commis-
30 sion which types of electronic gaming machines are in compliance with
31 the requirements of this act.

32 (2) No electronic gaming machine shall be operated at a parimutuel
33 licensee location unless the executive director of the Kansas racing and
34 gaming commission first issues a certificate for such machine authorizing
35 its use at a specified parimutuel licensee location.

36 (3) Each electronic gaming machine shall have the certificate prom-
37 inently displayed thereon. Any machine which does not display the cer-
38 tificate required by this section is contraband and a public nuisance sub-
39 ject to confiscation by any law enforcement officer.

40 (4) The executive director shall require each manufacturer, supplier,
41 provider, lottery gaming machine contractor or other person seeking the
42 examination and certification of electronic gaming machines to pay, in
43 advance, the anticipated actual costs of the examination. After the com-

1 pletion of the examination, the executive director shall refund any over-
2 payment or charge and collect amounts sufficient to reimburse the ex-
3 ecutive director for any underpayment of the actual cost of examination.
4 The executive director may contract for the examination of electronic
5 gaming machines as required by this subsection, and may rely upon test-
6 ing done by or for other states regulating electronic gaming machines, if
7 the executive director deems such testing to be reliable and in the best
8 interest of the state of Kansas.

9 (l) Electronic gaming machines operated pursuant to this act shall:

10 (1) Pay out an average of not less than 87% of the amount wagered
11 over the life of the machine;

12 (2) be linked directly to a central lottery communications system to
13 provide auditing and other program information as approved by the Kan-
14 sas lottery. The executive director shall select the computer system most
15 suitable for providing security and conducting the monitoring and audit-
16 ing functions required by this act. The communications systems certified
17 by the Kansas lottery shall not limit participation to only one electronic
18 gaming machine manufacturer, distributor, supplier or provider; and

19 (3) be on-line and in constant communication with a central com-
20 puter located at a location determined by the executive director. The
21 lottery gaming machine contractor shall lease or purchase at its own ex-
22 pense for the Kansas lottery all gaming equipment necessary to imple-
23 ment such central communications and auditing functions.

24 (m) No employee, contractor or other person in any way affiliated
25 with an electronic gaming machine contractor shall loan money to or
26 otherwise extend credit to patrons of a parimutuel licensee location.

27 New Sec. 3. In addition to the powers granted pursuant to K.S.A.
28 74-8704 and section 4, and amendments thereto, the executive director
29 shall have the power to:

30 (a) Enter into contracts with parimutuel licensees for placement and
31 replacement of electronic gaming machines at parimutuel licensee loca-
32 tions. Such contracts shall be subject to rules and regulations adopted
33 pursuant to this act but shall not be subject to the provisions of K.S.A.
34 75-3738 through 75-3744, and amendments thereto.

35 (b) Examine or cause to be examined by any agent or representative
36 designated by the executive director any books, papers, records or mem-
37 oranda of any lottery gaming machine contractor for the purpose of as-
38 certaining compliance with the provisions of the Kansas lottery act or rules
39 and regulations adopted pursuant thereto.

40 (c) Issue subpoenas to compel access to or for the production of any
41 books, papers, records or memoranda in the custody or control of any
42 lottery gaming machine contractor or to compel the appearance of any
43 lottery gaming machine contractor for the purpose of ascertaining com-

1 pliance with the provisions of this act or rules and regulations adopted
2 pursuant thereto. Subpoenas issued under the provisions of this subsection
3 may be served upon natural persons and corporations in the manner
4 provided in K.S.A. 60-304, and amendments thereto, for the service of
5 process by any officer authorized to serve subpoenas in civil actions or by
6 the executive director or an agent or representative designated by the
7 executive director. In the case of the refusal of any person to comply with
8 any such subpoena, the executive director may make application to the
9 district court of any county where such books, papers, records, memo-
10 randa or person is located for an order to comply.

11 (d) Inspect and view the operation of all machines, systems or facil-
12 ities where electronic gaming machines controlled and operated by the
13 Kansas lottery are located.

14 (e) Inspect and approve, prior to publication or distribution, all ad-
15 vertising by a lottery gaming machine contractor which includes any ref-
16 erence to the Kansas lottery.

17 New Sec. 4. (a) Electronic gaming machines shall be operated only
18 in counties where the qualified voters of the county have voted to permit
19 operation of electronic gaming machines at parimutuel licensee locations
20 within the county.

21 (b) The board of county commissioners of any county where there is
22 a parimutuel licensee location may submit by resolution, and shall submit
23 upon presentation of a petition filed in accordance with subsection (c),
24 to the qualified voters of the county a proposition to permit the operation
25 of electronic gaming machines at parimutuel licensee locations within the
26 county. The proposition shall be submitted to the voters either in a coun-
27 tywide special election called by the board of county commissioners for
28 that purpose and held not less than 90 days after the resolution is adopted
29 or the petition is filed or at the next general election, as shall be specified
30 by the board of county commissioners or in the petition, as the case may
31 be.

32 (c) A petition to submit a proposition to the qualified voters of a
33 county shall be filed with the county election officer. The petition shall
34 be signed by qualified voters of the county equal in number to not less
35 than 10% of the voters of the county who voted for the office of secretary
36 of state at the last preceding general election at which such office was
37 elected. The following shall appear on the petition: "We request an elec-
38 tion to determine whether the operation of electronic gaming machines
39 by the Kansas lottery shall be permitted at parimutuel licensee locations
40 in _____ county."

41 (d) Upon the adoption of a resolution or the submission of a valid
42 petition calling for an election, the county election officer shall cause the
43 following proposition to be placed on the ballot at the election called for

1 that purpose: “Shall the operation of electronic gaming machines by
2 the Kansas lottery be permitted at parimutuel licensee locations in
3 _____ county?”

4 (e) If a majority of the votes cast and counted at such election is in
5 favor of permitting the operation of such games at parimutuel licensee
6 locations, the executive director may enter into contracts with such li-
7 censees to operate such games at parimutuel licensee locations in the
8 county. If a majority of the votes cast and counted at an election is against
9 permitting the operation of electronic gaming machines at parimutuel
10 licensee locations in the county, the Kansas lottery shall not operate such
11 games in the county. The county election officer shall transmit a copy of
12 the certification of the results of the election to the executive director
13 and to the Kansas racing and gaming commission.

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

17 (g) If in any election provided for by this section a majority of the
18 votes cast and counted is against the proposition permitting the operation
19 of electronic gaming machines in the county, another election submitting
20 the same proposition shall not be held for at least two years from the date
21 of such election.

22 New Sec. 5. (a) All greyhound purse supplements paid pursuant to
23 this act shall be according to the point schedule in effect on January 1,
24 2003, at the racetrack facility in Sedgwick county. All purse supplements
25 paid pursuant to this section shall be in addition to purses and supple-
26 ments paid under K.S.A. 74-8801 et seq., and amendments thereto.

27 (b) Except as provided in subsection (e), no electronic gaming ma-
28 chine shall be operated unless the facility where the electronic gaming
29 machine is operated displays live and simulcast parimutuel races on video
30 terminals and has installed parimutuel windows for wagering on pari-
31 mutuel races.

32 (c) Except as provided in subsection (d):

33 (1) No electronic gaming machine shall be operated at a parimutuel
34 licensee location in Sedgwick county unless, during the first full calendar
35 year and each year thereafter in which electronic gaming machines are
36 operated at such location, the parimutuel licensee conducts at such lo-
37 cation at least eight live greyhound racing programs each calendar week
38 for the number of weeks raced during calendar year 2000, with at least
39 13 live races conducted each program.

40 (2) No electronic gaming machine shall be operated at a parimutuel
41 licensee location in Wyandotte county unless, during the first full calendar
42 year and each year thereafter in which electronic gaming machines are
43 operated at such location, the parimutuel licensee conducts live horse

1 racing programs for at least 65 days, with at least 13 live races conducted
2 each program, with a minimum of seven live thoroughbred and three live
3 quarter horse races per day and at least eight live greyhound racing pro-
4 grams each calendar week for at least the same number of weeks raced
5 during 2002, with at least 13 live races conducted each program.

6 (3) No electronic gaming machine shall be operated at a parimutuel
7 licensee location in Crawford 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 shall conduct at such
10 location live racing the number of days agreed upon by the organization
11 licensee and the parimutuel licensee but not less than 150 days, com-
12 prised of at least seven live racing programs each calendar week, with at
13 least 13 live races conducted each program.

14 (4) No electronic gaming machine shall be operated at a parimutuel
15 licensee location in Greenwood county unless, during the first full cal-
16 endar year and each year thereafter in which electronic gaming machines
17 are operated, the parimutuel licensee shall conduct at such location at
18 least 20 days of live horse racing with a minimum of three live races
19 restricted for thoroughbred horses and a minimum of six live races re-
20 stricted for quarter horses each day.

21 (d) The Kansas racing and gaming commission may provide excep-
22 tions to the requirements of subsection (c) for a parimutuel licensee con-
23 ducting live racing when events beyond the control of the licensee render
24 racing impossible or impractical. Such events shall include, but not be
25 limited to, any natural or man-made disaster, shortage of qualified racing
26 animals due to kennel sickness or otherwise or state-imposed limitations
27 on operations.

28 (e) The Kansas racing and gaming commission may authorize the
29 operation of electronic gaming machines at the racetrack facility at Eu-
30 reka Downs and the racetrack facility at Anthony Downs on days when
31 simulcast parimutuel races are displayed at such facility without requiring
32 live horse racing or live greyhound racing at such facility. The Kansas
33 racing and gaming commission shall not authorize the operation of such
34 machines at such racetrack facility unless the qualified voters of the
35 county where such racetrack facility is located have voted pursuant to
36 section 4, and amendments thereto, to permit operation of such machines
37 within the county.

38 New Sec. 6. (a) Expenditures from all funds created pursuant to this
39 section shall be made in accordance with appropriations acts upon war-
40 rants of the director of accounts and reports issued pursuant to vouchers
41 approved by the chairperson of the Kansas racing and gaming commission
42 or the chairperson's designee.

43 (b) There is hereby created in the state treasury the live horse racing

1 purse supplement fund. Twenty percent of all moneys paid into the live
2 horse racing purse supplement fund shall be transferred to the Kansas
3 horse breeding development fund created pursuant to K.S.A. 74-8829,
4 and amendments thereto. Fifty percent of the moneys deposited in the
5 Kansas horse breeding development fund pursuant to this subsection shall
6 be used as purse supplements for registered Kansas bred foals and 50%
7 of such amounts shall be used as breed awards for registered Kansas bred
8 broodmares and stallions. Moneys for purse supplements and breed
9 awards shall be distributed 62.5% to thoroughbreds and 37.5% to quarter
10 horses. Not more than 1% of the moneys credited to the live horse racing
11 purse supplement fund shall be available to the official horse breed reg-
12 istering agency, as recognized by the Kansas racing and gaming commis-
13 sion, to enhance, promote and administer the live horse racing and breed-
14 ing industry of Kansas. The balance of the moneys in the live horse racing
15 purse supplement fund, and any interest thereon, shall be paid to pari-
16 mutuel licensees for distribution as horse purse supplements with 62.5%
17 paid to thoroughbred purses and 37.5% paid to quarter horse purses.

18 (c) There is hereby established in the state treasury the live grey-
19 hound racing purse supplement fund. Moneys available in such fund shall
20 be paid to parimutuel licensees for distribution as purse supplements in
21 accordance with rules and regulations of the Kansas racing and gaming
22 commission. Such rules and regulations shall provide that, in addition to
23 purse supplements paid to winners of live greyhound races at each pari-
24 mutuel licensee location, the lottery gaming machine operator at the pari-
25 mutuel licensee location shall pay to the owner of each winner that is a
26 Kansas-whelped greyhound an additional amount equal to \$60 per point
27 for each point awarded to the winner. In addition, such rules and regu-
28 lations shall provide that an amount not to exceed 20% of the total amount
29 credited to such fund shall be transferred to the credit of the greyhound
30 breeding development fund, created pursuant to section 74-8831, and
31 amendments thereto.

32 (d) There is hereby established in the state treasury the electronic
33 gaming machine fund.

34 (e) There is hereby established in the state treasury the electronic
35 gaming machine operation and regulatory fund. Moneys in such fund shall
36 be used to pay for the expenses of the Kansas lottery and the Kansas
37 racing and gaming commission attributable to the operation and regula-
38 tion of electronic gaming machines. Moneys in such fund may be ex-
39 pended only pursuant to appropriation and moneys in excess of those
40 appropriated to the Kansas lottery and the Kansas racing and gaming
41 commission may be transferred to the state general fund and expended
42 as provided by appropriation.

43 New Sec. 7. (a) The executive director shall collect and remit to the

1 state treasurer in accordance with K.S.A. 75-4215, and amendments
2 thereto, all net machine income received from lottery gaming machine
3 contractors. Upon receipt of the remittance, the state treasurer shall de-
4 posit the entire amount in the state treasury and credit it to the electronic
5 gaming machine fund, established pursuant to section 6, and amendments
6 thereto. Separate accounts shall be maintained in the electronic gaming
7 machine fund for receipt of moneys from each lottery gaming machine
8 contractor.

9 (b) Not less than once each week, the state treasurer shall distribute
10 moneys remitted pursuant to subsection (a) as follows:

11 (1) One and one-half percent to the electronic gaming machine op-
12 eration and regulatory fund;

13 (2) one and one-half percent to the state gaming revenues fund;

14 (3) one-half percent to the problem gambling grant fund. The total
15 of the amounts credited to such fund in any one fiscal year pursuant to
16 this subsection shall not exceed \$4,000,000. All amounts credited to such
17 fund in any one fiscal year which are in excess of \$4,000,000 shall be
18 transferred and credited to the state general fund;

19 (4) one and one-half percent to the county in which the electronic
20 gaming machine is located;

21 (5) one percent to the city in which the electronic gaming machine
22 is located;

23 (6) one-half percent to the organization licensee at the facility at
24 which the electronic gaming machine is located;

25 (7) five percent to the live horse racing purse supplement fund;

26 (8) five percent to the live greyhound purse supplement fund; and

27 (9) twenty-five percent to the state general fund.

28 (c) (1) Except as provided by paragraph (2) of this subsection, after
29 each distribution of moneys pursuant to subsection (b), the state treasurer
30 shall remit the balance in the account for each lottery gaming machine
31 contractor to such lottery gaming machine contractor.

32 (2) Before remitting any moneys to a lottery gaming machine con-
33 tractor located in Crawford county, the state treasurer shall credit 0.34%
34 of the money credited to the account of such contractor to the Frontenac
35 bison maintenance fund and 0.34% to the U.S. 69 highway maintenance
36 fund.

37 New Sec. 8. (a) Except as when authorized in accordance with sub-
38 section (c), it is unlawful for any parimutuel licensee or its employees or
39 agents to allow any person to play electronic gaming machines or share
40 in winnings of a person knowing such person to be:

41 (1) Under 21 years of age;

42 (2) the executive director, a member of the commission or an em-
43 ployee of the Kansas lottery;

1 (3) an officer or employee of a vendor contracting with the Kansas
2 lottery to supply gaming equipment or tickets to the Kansas lottery for
3 use in the operation of any lottery conducted pursuant to this act;

4 (4) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
5 parent or stepparent of a person described by subsection (a)(2) or (3); or

6 (5) a person who resides in the same household as any person de-
7 scribed by subsection (a)(2) or (3).

8 (b) Violation of subsection (a) is a class A nonperson misdemeanor
9 upon conviction for a first offense. Violation of subsection (a) is a severity
10 level 9, nonperson felony upon conviction for a second or subsequent
11 offense.

12 (c) The executive director may authorize in writing any employee of
13 the Kansas lottery and any employee of a lottery vendor to play an elec-
14 tronic gaming machine to verify the proper operation thereof with respect
15 to security and contract compliance. Any prize awarded as a result of such
16 ticket purchase shall become the property of the Kansas lottery and be
17 added to the prize pools of subsequent lottery games. No money or mer-
18 chandise shall be awarded to any employee playing an electronic gaming
19 machine pursuant to this subsection.

20 New Sec. 9. No person shall operate an electronic gaming machine
21 while intoxicated. The Kansas racing and gaming commission shall adopt
22 rules and regulations concerning the identification of persons who may
23 be intoxicated and procedures for removal of such persons from premises
24 where electronic gaming machines are operated. Such rules and regula-
25 tions may include requirements that employees of a parimutuel licensee
26 be trained in controlling intoxicated persons within a parimutuel licensee
27 location.

28 New Sec. 10. Each lottery gaming machine contractor shall post one
29 or more signs at the contractor's parimutuel licensee location to inform
30 patrons of the toll-free number available to provide information and re-
31 ferral services regarding compulsive or problem gambling. The text shall
32 be determined by the secretary of the department of social and rehabil-
33 itation services. Failure by a lottery gaming machine contractor to post
34 and maintain such signs shall be cause for the imposition of a fine not to
35 exceed \$500 per day.

36 New Sec. 11. Each lottery gaming machine contractor shall provide
37 access by the executive director, the executive director's designee or the
38 commission to all books, papers, records and memoranda and the physical
39 premises where the electronic gaming machine activities occur for the
40 purpose of monitoring or inspecting the electronic gaming machines and
41 gaming equipment. None of the information disclosed pursuant to this
42 subsection shall be subject to disclosure under the Kansas open records
43 act, K.S.A. 45-216 et seq., and amendments thereto.

1 New Sec. 12. (a) Wagers shall be received only from a person at a
2 parimutuel licensee location. No person present at a parimutuel licensee
3 location shall place or attempt to place a wager on behalf of another
4 person who is not present at the parimutuel licensee location.

5 (b) Violation of this section is a class A nonperson misdemeanor upon
6 a conviction for a first offense. Violation of this section is a severity level
7 9, nonperson felony upon conviction for a second or subsequent offense.

8 New Sec. 13. A person under age 21 shall not be permitted in any
9 area at a parimutuel licensee location where gaming is being conducted,
10 except for a person at least 18 years of age who is an employee of the
11 parimutuel licensee. No employee under age 21 shall perform any function
12 involved in gaming by the patrons. No person under age 21 shall be
13 permitted to make a wager on an electronic gaming machine.

14 New Sec. 14. Pursuant to section 2 of the federal act entitled "An
15 Act to Prohibit Transportation of Gambling Devices in Interstate and
16 Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas,
17 acting by and through the duly elected and qualified members of the
18 legislature, does hereby in this section, and in accordance with and in
19 compliance with the provisions of section 2 of such federal act, declare
20 and proclaim that it is exempt from the provision of section 2 of such
21 federal act to the extent that such gambling devices are being transported
22 to or from the Kansas lottery or to or from a lottery gaming machine
23 contractor at a parimutuel licensee location within the state of Kansas.

24 New Sec. 15. Except for persons acting in accordance with rules and
25 regulations of the Kansas lottery and rules and regulations of the Kansas
26 racing and gaming commission in performing installation, maintenance
27 and repair services, any person who, with the intent to manipulate the
28 outcome, pay out or operation of an electronic gaming machine, manip-
29 ulates the outcome, pay out or operation of an electronic gaming machine
30 by physical, electrical or mechanical means shall be guilty of a severity
31 level 8, nonperson felony.

32 New Sec. 16. (a) The Kansas racing and gaming commission and its
33 designated employees may observe and inspect all electronic gaming ma-
34 chines and facilities operated by parimutuel licensees.

35 (b) The Kansas racing and gaming commission may examine, or cause
36 to be examined by any agent or representative designated by such com-
37 mission, any books, papers, records or memoranda of any parimutuel
38 licensee, or of any business involved in electronic gaming, for the purpose
39 of ascertaining compliance with any provision of this act or any rules and
40 regulations adopted hereunder.

41 (c) The Kansas racing and gaming commission may adopt rules and
42 regulations with respect to security, safety and honest conduct at all par-
43 imutuel licensee locations.

1 (d) The Kansas racing and gaming commission shall have the power
2 to investigate alleged violations of this act and alleged violations of any
3 rules and regulations, orders and final decisions of such commission.

4 (e) Appropriate security measures shall be required in any and all
5 areas where electronic gaming machines are located, the Kansas racing
6 and gaming commission shall approve all such security measures.

7 (f) The Kansas racing and gaming commission may provide by rules
8 and regulations for the licensure of key gaming employees and technology
9 providers. Such rules and regulations may specify employment applica-
10 tion forms, fees and procedures for suspension or revocation of any key
11 gaming employee license or technology provider license.

12 (g) The Kansas racing and gaming commission shall require an annual
13 audit of the electronic gaming machine operations of each lottery gaming
14 machine contractor contracting with the Kansas lottery. Such audit shall
15 be conducted by a licensed accounting firm approved by the Kansas rac-
16 ing and gaming commission. Such audit shall be conducted at the expense
17 of the lottery gaming machine contractor to which such audit applies.

18 (h) The Kansas racing and gaming commission shall have the power
19 to take any other action as may be reasonable or appropriate to enforce
20 the provisions of this act and any rules and regulations, orders and final
21 decisions of such commission.

22 New Sec. 17. (a) It is a class A nonperson misdemeanor for a legis-
23 lator or other elected state officer, an elected officer or employee of a
24 city or county in which a parimutuel racetrack facility is located, the ex-
25 ecutive director, any member of the lottery commission, any employee
26 of the Kansas lottery or any member, employee or appointee of the Kan-
27 sas racing and gaming commission, including stewards and racing judges,
28 knowingly to:

29 (1) Participate in the operation of or have a financial interest in any
30 business which has been issued a concessionaire license, racing or wa-
31 gering or electronic gaming machine equipment or services license, fa-
32 cility owner license or facility manager license, or any business which sells
33 goods or services to an organization licensee;

34 (2) participate directly or indirectly as an owner, operator, manager
35 or consultant in electronic gaming in Kansas;

36 (3) place a wager on or bet or play an electronic gaming machine in
37 Kansas;

38 (4) accept any compensation, gift, loan, entertainment, favor or serv-
39 ice from any parimutuel licensee or electronic gaming machine contrac-
40 tor, except such suitable facilities and services within a racetrack facility
41 operated by an organization licensee as may be required to facilitate the
42 performance of the executive director's, member's, employee's or ap-
43 pointee's official duties;

1 (5) enter into any business dealing, venture or contract with an elec-
2 tronic gaming machine contractor or an owner or lessee of a parimutuel
3 licensee location in Kansas; or

4 (6) engage in any activity described in subsection (a)(1), (2), (4) or
5 (5) within two years from the last day of service as a legislator or other
6 elected state officer, employee of a city or county in which a parimutuel
7 racetrack facility or electronic gaming machine contractor is located, ex-
8 ecutive director, member, employee or appointee; or

9 (7) the provisions of paragraph (3) shall not apply to legislators or
10 employees of cities or counties in which a parimutuel racetrack facility is
11 located.

12 (b) It is a severity level 8, nonperson felony for any person playing or
13 using any electronic gaming machine in Kansas knowingly to:

14 (1) Use other than a lawful coin or legal tender of the United States
15 of America, or to use coin not of the same denomination as the coin
16 intended to be used in an electronic gaming machine, except that in the
17 playing of any electronic gaming machine or similar gaming device, it
18 shall be lawful for any person to use gaming billets, tokens or similar
19 objects therein which are approved by the Kansas lottery;

20 (2) possess or use, while on the premises of an electronic gaming
21 machine contractor or a parimutuel licensee location any cheating or
22 thieving device, including but not limited to, tools, wires, drills, coins
23 attached to strings or wires or electronic or magnetic devices to facilitate
24 removing from any electronic gaming machine any money or contents
25 thereof, except that a duly authorized agent or employee of the Kansas
26 lottery, the Kansas racing and gaming commission, or a parimutuel li-
27 censee or an electronic gaming machine contractor may possess and use
28 any of the foregoing only in furtherance of the agent's or employee's
29 employment at the parimutuel licensee location; or

30 (3) possess or use while on the premises of any parimutuel licensee
31 location any key or device designed for the purpose of or suitable for
32 opening or entering any electronic gaming machine or similar gaming
33 device or drop box, except that a duly authorized agent or employee of
34 the Kansas lottery, the Kansas racing and gaming commission, a pari-
35 mutuel licensee may possess and use any of the foregoing only in fur-
36 therance of the agent's or employee's employment at the parimutuel li-
37 censee location.

38 New Sec. 18. (a) No electronic gaming machine contractor, organi-
39 zation licensee or facility manager licensee shall permit any business not
40 owned and operated by the organization licensee to provide electronic
41 gaming machine equipment or services, as designated by rules and reg-
42 ulations of the commission, to an organization licensee unless such busi-
43 ness has been issued an electronic gaming machine equipment or services

1 license by the Kansas racing and gaming commission. Such equipment
2 and services shall include, but are not limited to, surveillance, electronic
3 computer components, random number generator or cabinet thereof and
4 token redemption equipment or services.

5 (b) Businesses required to be licensed pursuant to this section shall
6 apply for electronic gaming machine equipment or services licenses in a
7 manner and upon forms prescribed and furnished by the Kansas racing
8 and gaming commission. The Kansas racing and gaming commission shall
9 require disclosure of information about the owners and officers of each
10 applicant and may require such owners and officers to submit to finger-
11 printing. The Kansas racing and gaming commission also may require
12 disclosure of information about and fingerprinting of such employees of
13 each applicant as the commission considers necessary. Electronic gaming
14 machine equipment or services licenses shall be issued for a period of
15 time established by the Kansas racing and gaming commission but not to
16 exceed 10 years. The Kansas racing and gaming commission, by rules and
17 regulations, shall establish a schedule of application fees and license fees
18 for electronic gaming machine equipment or services licenses based upon
19 the type and size of business. The application fee shall not be refundable
20 if the business fails to qualify for a license. If the application fee is insuf-
21 ficient to pay the reasonable expenses of processing the application and
22 investigating the applicant's qualifications for licensure, the Kansas racing
23 and gaming commission shall require the applicant to pay to the Kansas
24 racing and gaming commission, at such times and in such form as required
25 by the Kansas racing and gaming commission, any additional amounts
26 necessary to pay such expenses. No license shall be issued to an applicant
27 until the applicant has paid such additional amounts in full, and such
28 amounts shall not be refundable except to the extent that they exceed the
29 actual expenses of processing the application and investigating the appli-
30 cant's qualifications for licensure.

31 (c) The Kansas racing and gaming commission shall require appli-
32 cants as a condition of licensure to consent to allow agents of the Kansas
33 bureau of investigation, security personnel of the Kansas lottery or the
34 Kansas racing and gaming commission to search without warrant the li-
35 censee's premises and personal property and the persons of its owners,
36 officers and employees while engaged in the licensee's business within
37 the premises of the facility or adjacent facilities under the control of the
38 organization licensee, for the purpose of investigating criminal violations
39 of this act or violations of rules and regulations of the Kansas racing and
40 gaming commission.

41 (d) The Kansas racing and gaming commission may refuse to issue
42 an electronic gaming machine equipment or services license to any busi-
43 ness if any person having an interest ownership in such business, any

1 person who is an officer of such business or any person employed by such
2 business:

3 (1) Has been convicted of a felony in a court of any state or of the
4 United States; has been adjudicated in the last 10 years, in any such court
5 of committing as a juvenile an act which, if committed by an adult, would
6 constitute a felony or has been convicted of a crime in any other state or
7 country which would constitute a felony, if committed under the same
8 circumstances pursuant to Kansas law;

9 (2) has been convicted of a violation of any law of any state or of the
10 United States involving gambling or controlled substances or has been
11 adjudicated in the last 10 years in any such court of committing as a
12 juvenile an act which, if committed by an adult, would constitute such a
13 violation;

14 (3) fails to disclose any material fact or provides information, knowing
15 such information to be false, in connection with the application for the
16 license;

17 (4) has been found by the Kansas racing and gaming commission to
18 have violated any provision of this act or any rule and regulation of the
19 Kansas racing and gaming commission; or

20 (5) has failed to meet any monetary or tax obligation to the federal
21 government or to any state or local government.

22 (e) The Kansas racing and gaming commission may suspend or re-
23 voke the electronic gaming machine equipment or services license of any
24 business for any reason which would justify refusal to issue such a license.

25 (f) The Kansas racing and gaming commission may provide by rules
26 and regulations for the temporary suspension of an electronic gaming
27 machine equipment or services license. Such suspension shall be for a
28 period not exceeding 30 days. Upon expiration of such suspension, the
29 license shall be restored unless the license has been suspended or revoked
30 as a result of proceedings conducted pursuant to subsection (e).

31 New Sec. 19. No taxes, fees or other charges shall be made, imposed
32 on or levied by any city or county against the net machine income derived
33 pursuant to the Kansas electronic gaming law.

34 New Sec. 20. All sales of electronic gaming machine games shall be
35 exempt from sales taxes imposed pursuant to K.S.A. 12-187 *et seq.*, and
36 79-3601 *et seq.*, and amendments thereto.

37 New Sec. 21. Each lottery gaming machine contractor shall hold the
38 executive director of the Kansas lottery, the Kansas lottery commission,
39 the executive director of the Kansas racing and gaming commission, the
40 Kansas racing and gaming commission and the state harmless from and
41 defend and pay for the defense of any and all claims which may be as-
42 serted against the executive director, the commission, the executive di-
43 rector of the Kansas racing and gaming commission, the Kansas racing

1 and gaming commission and the state, or the agents or employees thereof,
2 arising from the operation of electronic gaming machines located at the
3 parimutuel licensee location of such lottery gaming machine contractor.
4 The provisions of this section shall not apply to any claims arising from
5 the negligence or willful misconduct of the executive director, the com-
6 mission, the executive director of the Kansas racing and gaming commis-
7 sion, the Kansas racing and gaming commission and the state, or the
8 agents or employees thereof.

9 New Sec. 22. (a) Subject to the provisions of subsection (b), the ex-
10 ecutive director, with the approval of the governor, may contract with a
11 person to operate electronic gaming machines at a single specified loca-
12 tion in the state where the executive director determines the operation
13 of such machine would promote tourism and economic development.
14 Such person shall be required to meet all qualifications of a lottery gaming
15 machine contractor which is a parimutuel licensee under this act, other
16 than those qualifications specifically related to operating a parimutuel
17 facility. All provisions of this act applicable to the operation of electronic
18 gaming machines by lottery gaming machine contractors which are pari-
19 mutuel licensees shall apply to the operation of such machines. Such
20 specified location shall not be within a 75 mile radius of a parimutuel
21 licensee location.

22 (b) If more than one person wishes to contract to become a lottery
23 gaming machine operator pursuant to this section, the executive director,
24 in determining which person to contract with, shall take into consideration
25 the following factors: The size of the proposed facility, the estimated
26 number of tourists that would be attracted by the proposed facility, the
27 number of electronic gaming machines planned to be operated at the
28 proposed facility, the amount of the contract privilege fee proposed to be
29 paid by the operator, the amount of the management fee proposed to be
30 paid to the operator and amounts proposed to be paid by the operator to
31 the city and county where the facility will be located.

32 (c) The executive director shall collect and remit to the state treasurer
33 in accordance with K.S.A. 75-4215, and amendments thereto, all net ma-
34 chine income received from the lottery gaming machine operator. Upon
35 receipt of the remittance, the state treasurer shall deposit the entire
36 amount in the state treasury and credit it to the electronic gaming ma-
37 chine fund, established pursuant to section 6, and amendments thereto.
38 A separate account shall be maintained in the electronic gaming machine
39 fund for receipt of moneys from the lottery gaming machine operator.

40 (d) Not less than once each week, the state treasurer shall distribute
41 such moneys as follows:

42 (1) One and one-half percent to the electronic gaming machine op-
43 eration and regulation fund;

- 1 (2) One and one-half percent to the state gaming revenues fund;
2 (3) one-half percent to the problem gambling grant fund. The total
3 of the amounts credited to such fund in any one fiscal year pursuant to
4 this subsection shall not exceed \$4,000,000. All amounts credited to such
5 fund in any one fiscal year which are in excess of \$4,000,000 shall be
6 transferred and credited to the state general fund;
- 7 (4) two percent to the state tourism fund;
8 (5) five percent to the live horse racing purse supplement fund;
9 (6) five percent to the live greyhound purse supplement fund;
10 (7) thirty-six and one-half percent to the state general fund; and
11 (8) the balance to the lottery gaming machine operator. Such amount
12 shall be subject to reduction as provided by section 25, and amendments
13 thereto.
- 14 (e) Electronic gaming machines shall be operated pursuant to this
15 section only if the qualified voters of the county have voted by a majority
16 to permit operation of electronic gaming machines within the county as
17 follows:
- 18 The board of county commissions of the county may submit by reso-
19 lution to the qualified voters of the county a proposition to permit the
20 operation of electronic gaming machines within the county. The propo-
21 sition shall be submitted to the voters at a countywide special election
22 called by the board of county commissioners for that purpose and held
23 not less than 90 days after the resolution is adopted. Upon the adoption
24 of the resolution, the county election officer shall cause the following
25 proposition to be placed on the ballot at the election called for that pur-
26 pose: "Shall the operation of electronic gaming machines by the Kansas
27 lottery be permitted in _____ county?" If a majority of the
28 votes cast and counted at such election are in favor of permitting the
29 operation of such machines within the county, the Kansas lottery may
30 enter a contract pursuant to subsection (a) for operation of such machines
31 in the county. If less than a majority of the votes cast and counted at an
32 election under this section are against permitting the operation of elec-
33 tronic gaming machines within the county, the Kansas lottery shall not
34 contract pursuant to subsection (a) for the operation of such machines
35 within the county. The county election officer shall transmit a copy of the
36 certification of the results of the election to the executive director and to
37 the Kansas racing and gaming commission.
- 38 (f) The election provided for by this section shall be conducted, and
39 the votes counted and canvassed, in the manner provided by law for
40 question submitted elections of the county.
- 41 (g) If in any election provided for by this section a majority of the
42 votes cast and counted is against permitting the operation of electronic
43 gaming machines in the county, another election submitting the issue of

1 the operation of electronic gaming machines in the county shall not be
2 held for at least two years from the date of such election.

3 New Sec. 23. If a disagreement arises between the executive director
4 and the Kansas racing and gaming commission with regard to their re-
5 spective duties or responsibilities in carrying out the purposes of the Kan-
6 sas gaming act, such disagreement shall be resolved by the governor in a
7 manner not inconsistent with the provisions of this act.

8 New Sec. 24. As a condition precedent to contracting for the privi-
9 lege of being a lottery gaming machine contractor an applicant for licen-
10 sure shall file with the secretary of state of this state written consent,
11 irrevocable, that any action or garnishment proceeding may be com-
12 menced against such applicant in the proper court of any county in this
13 state in which the cause of action shall arise or in which the plaintiff may
14 reside by the service of process on a resident agent, and stipulating and
15 agreeing that such service shall be taken and held in all courts to be as
16 valid and binding as if due service had been made upon such applicant.
17 The written consent shall state that the courts of this state have jurisdic-
18 tion over the person of such applicant and are the proper and convenient
19 forum for such action and shall waive the right to request a change of
20 jurisdiction or venue to a court outside that state and that all actions
21 arising under this act and commenced by the applicant shall be brought
22 in this state's court as the proper and convenient forum. Such consent
23 shall be executed by the applicant and if a corporation, by the president
24 and secretary of such corporation, and shall be accompanied by a duly
25 certified copy of the order or resolution of the board of directors, trustees
26 or managers authorizing the president and secretary to execute the same.

27 New Sec. 25. (a) The lottery gaming machine operator may enter an
28 agreement with the city and county in which such operator's facility is
29 located to provide revenue to such city or county from the operator's
30 share of the net machine income.

31 (b) If an agreement is entered into pursuant to this section, a certified
32 copy of the agreement shall be delivered to the state treasurer. The state
33 treasurer shall pay such amounts to the city and county from the opera-
34 tor's net machine income as determined under section 22, and amend-
35 ments thereto.

36 New Sec. 26. (a) There is hereby created within the state treasury
37 the Frontenac bison maintenance fund. All expenditures from the fund
38 shall be made for the purpose of maintaining, developing and expanding
39 the display of bison by the department of wildlife and parks on land owned
40 by the department in Frontenac, Kansas.

41 (b) All expenditures from the fund shall be upon warrants of the
42 director of accounts and reports issued pursuant to vouchers approved
43 by the secretary of wildlife and parks or the secretary's designee.

1 New Sec. 27. (a) There is hereby created the U.S. 69 highway main-
2 tenance fund. All money credited to such fund shall be expended for the
3 purpose of providing road maintenance to U.S. 69 highway.

4 (b) All expenditures from such fund shall be upon warrants of the
5 director of accounts and reports issued pursuant to vouchers approved
6 by the secretary of transportation or the secretary's designee. At such
7 time as the city of Frontenac becomes responsible for maintenance of
8 portions of U.S. 69 highway, all funds credited to such fund shall be paid
9 to the city of Frontenac.

10 Sec. 28. K.S.A. 74-8702 is hereby amended to read as follows: 74-
11 8702. As used in the Kansas lottery act, unless the context otherwise
12 requires:

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

14 (b) "Executive director" means the executive director of the Kansas
15 lottery.

16 ~~(c) "Gaming equipment" means any electric, electronic or mechan-
17 ical device or other equipment unique to the Kansas lottery used directly
18 in the operation of any lottery and in the determination of winners pur-
19 suant to this act.~~

20 (c) "Gaming equipment" means any electric, electronic, computerized
21 or electromechanical machine, mechanism, supply or device, or any other
22 equipment, which is: (1) Unique to the Kansas lottery and used pursuant
23 to the Kansas lottery act; (2) integral to the operation of an electronic
24 gaming machine; or (3) affects the results of an electronic gaming machine
25 by determining win or loss.

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

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

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

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

38 (h) "Person" means any natural person, association, *limited liability*
39 *company*, corporation or partnership.

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

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

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

3 (l) "Vendor" means any person who has entered into a major pro-
4 curement contract with the Kansas lottery.

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

9 (n) "Video lottery machine" means any electronic video game ma-
10 chine that, upon insertion of cash, is available to play or simulate the play
11 of a video game authorized by the commission, including but not limited
12 to bingo, poker, black jack and keno, and which uses a video display and
13 microprocessors and in which, by chance, the player may receive free
14 games or credits that can be redeemed for cash.

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

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

23 (B) any machine or device in which the prize or evidence of a prize
24 is determined only by chance, including, but not limited to, any slot ma-
25 chine or bingo machine; or

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

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

29 (A) Any food vending machine defined by K.S.A. 36-501, and amend-
30 ments thereto;

31 (B) any nonprescription drug machine authorized under K.S.A. 65-
32 650, and amendments thereto;

33 (C) any machine which dispenses only bottled or canned soft drinks,
34 chewing gum, nuts or candies; ~~or~~

35 (D) *any electronic gaming machine operated in accordance with the*
36 *provisions of the Kansas electronic gaming law; or*

37 (E) any machine excluded from the definition of gambling devices
38 under subsection (d) of K.S.A. 21-4302, and amendments thereto.

39 (p) "*Electronic gaming machine*" means *any electronic, electrome-*
40 *chanical, video or computerized device, contrivance or machine author-*
41 *ized by the Kansas lottery which, upon insertion of cash, tokens, electronic*
42 *cards or any consideration, is available to play, operate or simulate the*
43 *play of an electronic gaming machine, including, but not limited to, bingo,*

1 *poker, blackjack, keno and slot machines, and which may deliver or entitle*
2 *the player operating the machine to receive cash, tokens, merchandise or*
3 *credits that may be redeemed for cash. Electronic gaming machines may*
4 *use bill validators and may be single-position reel-type, single or multi-*
5 *game video and single-position multi-game video electronic game, includ-*
6 *ing but not limited to, poker, blackjack and slot machines.*

7 (q) *“Facility owner licensee,” “facility manager licensee” and “organ-*
8 *ization licensee” have the meanings provided by K.S.A. 74-8802, and*
9 *amendments thereto.*

10 (r) *“Key gaming employee” means any natural person 21 years of age*
11 *or older employed by or under contract with a lottery gaming machine*
12 *contractor or employed by or under contract with a person providing on*
13 *or off-site management or employee-related services to the lottery gaming*
14 *machine contractor, including, but not limited to: (1) Gaming machine*
15 *contractor manager and assistant manager; (2) facilities operator man-*
16 *ager; (3) electronic games manager; (4) accounting department personnel;*
17 *(5) count room employees; (6) cage department employees, including cash-*
18 *iers and main bank employees; (7) vault department employees; (8) ap-*
19 *provers of credit; (9) surveillance department employees; (10) security*
20 *department employees; (11) floor managers; (12) electronic gaming ma-*
21 *chine technicians; (13) custodians of electronic gambling machines, in-*
22 *cluding persons with access to cash and accounting records within such*
23 *machines; (14) collection personnel; (15) internal auditors of the lottery*
24 *gaming machine contractor; and (16) any employee whose total cash com-*
25 *ensation is in excess of \$50,000 per year.*

26 (s) *“Lottery gaming machine contractor” means any person with*
27 *which the executive director has contracted for the placement of an elec-*
28 *tronic gaming machine pursuant to section 2 or 22, and amendments*
29 *thereto.*

30 (t) *“Net machine income” means the total of all cash and the face*
31 *value of all tokens or electronic cards placed in an electronic gaming*
32 *machine less cash, merchandise or credits that may be redeemed for cash*
33 *paid to players as winnings.*

34 (u) *“Parimutuel licensee” means a facility owner licensee or a facility*
35 *manager licensee, as defined by K.S.A. 74-8802, and amendments thereto.*

36 (v) *“Parimutuel licensee location” means a racetrack facility located*
37 *on or immediately adjacent to the real estate of a parimutuel licensee*
38 *where either live horse racing or live greyhound racing, or both, have*
39 *been authorized or for which an application for authorization is pending*
40 *prior to February 1, 2003. A parimutuel licensee location shall include*
41 *any existing structure located on the real estate where such racing is*
42 *authorized to be conducted or any other structure that may be constructed*
43 *on or immediately adjacent to such real estate. Except for a fair track, in*

1 *order to qualify as a parimutuel licensee location, a racetrack facility*
2 *where live horse racing was conducted in 2002 shall be required to con-*
3 *duct live horse racing at least 65 days each year. A day of live horse racing*
4 *shall consist of not less than seven races limited to thoroughbreds and not*
5 *less than three races limited to quarter horses.*

6 (w) *“Progressive electronic game” means a game played on an elec-*
7 *tronic gaming machine for which the payout increases uniformly as the*
8 *game is played and for which the jackpot, determined by application of*
9 *a formula to the income of independent, local or interlinked electronic*
10 *gaming machines, may be won.*

11 (x) *“Technology provider” means any person or entity other than a*
12 *lottery gaming machine contractor that designs, manufactures, installs,*
13 *operates, distributes, supplies or replaces an electronic gaming machine*
14 *for sale, lease or use in accordance with this act.*

15 (y) *“Token” means a metal or other representative of value, which is*
16 *not legal tender, redeemable for cash only by the issuing lottery gaming*
17 *machine contractor at its parimutuel licensee location and issued and sold*
18 *by a lottery gaming machine contractor for the sole purpose of playing*
19 *an electronic gaming machine.*

20 (z) *“Lottery gaming machine operator” means any person who has*
21 *entered into a contract with the Kansas lottery to operate electronic gam-*
22 *ing machines pursuant to section 22, and amendments thereto.*

23 Sec. 29. K.S.A. 74-8710 is hereby amended to read as follows: 74-
24 8710. (a) The commission, upon the recommendation of the executive
25 director, shall adopt rules and regulations governing the establishment
26 and operation of a state lottery as necessary to carry out the purposes of
27 this act. Temporary rules and regulations may be adopted by the com-
28 mission without being subject to the provisions and requirements of
29 K.S.A. 77-415 through 77-438, and amendments thereto, but shall be
30 subject to approval by the attorney general as to legality and shall be filed
31 with the secretary of state and published in the Kansas register. Tem-
32 porary and permanent rules and regulations may include but shall not be
33 limited to:

34 (1) Subject to the provisions of subsection (c), the types of lottery
35 games to be conducted, including but not limited to instant lottery, on-
36 line and traditional games, ~~but not including games on video lottery ma-~~
37 ~~chines or lottery machines, but not including games on lottery machines~~
38 *or video lottery machines.*

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

43 (3) The manner of payment of prizes to the holders of winning tickets

1 or shares.

2 (4) The frequency of the drawings or selections of winning tickets or
3 shares.

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

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

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

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

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

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

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

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

20 (13) *Provisions relating to or necessary for the implementation ad-*
21 *ministration and enforcement of the provisions of the Kansas electronic*
22 *gaming law.*

23 (14) *The types of electronic gaming machines to be operated pursuant*
24 *to the Kansas electronic gaming law.*

25 (b) No new lottery game shall commence operation after the effective
26 date of this act unless first approved by the governor or, in the governor's
27 absence or disability, the lieutenant governor. *This subsection shall not*
28 *be construed to require approval of games played on an electronic gaming*
29 *machine.*

30 (c) The lottery shall adopt rules and regulations concerning the game
31 of keno. Such rules and regulations shall require that the amount of time
32 which elapses between the start of games shall not be less than four
33 minutes.

34 Sec. 30. K.S.A. 74-8711 is hereby amended to read as follows: 74-
35 8711. (a) There is hereby established in the state treasury the lottery
36 operating fund.

37 (b) *Except as otherwise provided by the Kansas electronic gaming*
38 *law*, the executive director shall remit all moneys collected from the sale
39 of lottery tickets and shares and any other moneys received by or on
40 behalf of the Kansas lottery to the state treasurer in accordance with the
41 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
42 each such remittance, the state treasurer shall deposit the entire amount
43 in the state treasury to the credit of the lottery operating fund. Moneys

1 credited to the fund shall be expended or transferred only as provided
2 by this act. Expenditures from such fund shall be made in accordance
3 with appropriations acts upon warrants of the director of accounts and
4 reports issued pursuant to vouchers approved by the executive director
5 or by a person designated by the executive director.

6 (c) Moneys in the lottery operating fund shall be used for:

7 (1) The payment of expenses of the lottery, which shall include all
8 costs incurred in the operation and administration of the Kansas lottery,
9 *other than expenses incurred pursuant to the Kansas electronic gaming*
10 *law*; all costs resulting from contracts entered into for the purchase or
11 lease of goods and services needed for operation of the lottery, including
12 but not limited to supplies, materials, tickets, independent studies and
13 surveys, data transmission, advertising, printing, promotion, incentives,
14 public relations, communications and distribution of tickets and shares;
15 and reimbursement of costs of facilities and services provided by other
16 state agencies;

17 (2) the payment of compensation to lottery retailers;

18 (3) transfers of moneys to the lottery prize payment fund pursuant to
19 K.S.A. 74-8712, and amendments thereto;

20 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,
21 and amendments thereto;

22 (5) transfers to the state gaming revenues fund pursuant to subsection
23 (d) of this section and as otherwise provided by law; and

24 (6) transfers to the county reappraisal fund as prescribed by law.

25 (d) The director of accounts and reports shall transfer moneys in the
26 lottery operating fund to the state gaming revenues fund created by
27 K.S.A. 79-4801, and amendments thereto, on or before the 15th day of
28 each month in an amount certified monthly by the executive director and
29 determined as follows, whichever is greater:

30 (1) An amount equal to the moneys in the lottery operating fund in
31 excess of those needed for the purposes described in subsections (c)(1)
32 through (c)(4); or

33 (2) except for pull-tab lottery tickets and shares, an amount equal to
34 not less than 30% of total monthly revenues from the sales of lottery
35 tickets and shares less estimated returned tickets. In the case of pull-tab
36 lottery tickets and shares, an amount equal to not less than 20% of the
37 total monthly revenues from the sales of pull-tab lottery tickets and shares
38 less estimated returned tickets.

39 Sec. 31. K.S.A. 2002 Supp. 19-101a is hereby amended to read as
40 follows: 19-101a. (a) The board of county commissioners may transact all
41 county business and perform all powers of local legislation and adminis-
42 tration it deems appropriate, subject only to the following limitations,
43 restrictions or prohibitions:

1 (1) Counties shall be subject to all acts of the legislature which apply
2 uniformly to all counties.

3 (2) Counties may not consolidate or alter county boundaries.

4 (3) Counties may not affect the courts located therein.

5 (4) Counties shall be subject to acts of the legislature prescribing
6 limits of indebtedness.

7 (5) In the exercise of powers of local legislation and administration
8 authorized under provisions of this section, the home rule power con-
9 ferred on cities to determine their local affairs and government shall not
10 be superseded or impaired without the consent of the governing body of
11 each city within a county which may be affected.

12 (6) Counties may not legislate on social welfare administered under
13 state law enacted pursuant to or in conformity with public law No. 271—
14 74th congress, or amendments thereof.

15 (7) Counties shall be subject to all acts of the legislature concerning
16 elections, election commissioners and officers and their duties as such
17 officers and the election of county officers.

18 (8) Counties shall be subject to the limitations and prohibitions im-
19 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
20 prescribing limitations upon the levy of retailers' sales taxes by counties.

21 (9) Counties may not exempt from or effect changes in statutes made
22 nonuniform in application solely by reason of authorizing exceptions for
23 counties having adopted a charter for county government.

24 (10) No county may levy ad valorem taxes under the authority of this
25 section upon real property located within any redevelopment project area
26 established under the authority of K.S.A. 12-1772, and amendments
27 thereto, unless the resolution authorizing the same specifically authorized
28 a portion of the proceeds of such levy to be used to pay the principal of
29 and interest upon bonds issued by a city under the authority of K.S.A.
30 12-1774, and amendments thereto.

31 (11) Counties shall have no power under this section to exempt from
32 any statute authorizing or requiring the levy of taxes and providing sub-
33 stitute and additional provisions on the same subject, unless the resolution
34 authorizing the same specifically provides for a portion of the proceeds
35 of such levy to be used to pay a portion of the principal and interest on
36 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
37 ments thereto.

38 (12) Counties may not exempt from or effect changes in the provi-
39 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

40 (13) Except as otherwise specifically authorized by K.S.A. 12-1,101
41 through 12-1,109, and amendments thereto, counties may not levy and
42 collect taxes on incomes from whatever source derived.

43 (14) Counties may not exempt from or effect changes in K.S.A. 19-

1 430, and amendments thereto.

2 (15) Counties may not exempt from or effect changes in K.S.A. 19-
3 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

4 (16) (A) Counties may not exempt from or effect changes in K.S.A.
5 13-13a26, and amendments thereto.

6 (B) This provision shall expire on June 30, 2004.

7 (17) (A) Counties may not exempt from or effect changes in K.S.A.
8 71-301a, and amendments thereto.

9 (B) This provision shall expire on June 30, 2004.

10 (18) Counties may not exempt from or effect changes in K.S.A. 19-
11 15,139, 19-15,140 and 19-15,141, and amendments thereto.

12 (19) Counties may not exempt from or effect changes in the provi-
13 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
14 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
15 through 12-1270 and 12-1276, and amendments thereto.

16 (20) Counties may not exempt from or effect changes in the provi-
17 sions of K.S.A. 19-211, and amendments thereto.

18 (21) Counties may not exempt from or effect changes in the provi-
19 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

20 (22) Counties may not regulate the production or drilling of any oil
21 or gas well in any manner which would result in the duplication of reg-
22 ulation by the state corporation commission and the Kansas department
23 of health and environment pursuant to chapter 55 and chapter 65 of the
24 Kansas Statutes Annotated and any rules and regulations adopted pur-
25 suant thereto. Counties may not require any license or permit for the
26 drilling or production of oil and gas wells. Counties may not impose any
27 fee or charge for the drilling or production of any oil or gas well.

28 (23) Counties may not exempt from or effect changes in K.S.A. 79-
29 41a04, and amendments thereto.

30 (24) Counties may not exempt from or effect changes in K.S.A. 79-
31 1611, and amendments thereto.

32 (25) Counties may not exempt from or effect changes in K.S.A. 79-
33 1494, and amendments thereto.

34 (26) Counties may not exempt from or effect changes in subsection
35 (b) of K.S.A. 19-202, and amendments thereto.

36 (27) Counties may not exempt from or effect changes in subsection
37 (b) of K.S.A. 19-204, and amendments thereto.

38 (28) Counties may not levy or impose an excise, severance or any
39 other tax in the nature of an excise tax upon the physical severance and
40 production of any mineral or other material from the earth or water.

41 (29) Counties may not exempt from or effect changes in K.S.A. 79-
42 2017 or 79-2101, and amendments thereto.

43 (30) Counties may not exempt from or effect changes in K.S.A. 2-

1 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d 65-
2 1,178 through 65-1,199 or K.S.A. 2002 Supp. 17-5909, and amendments
3 thereto.

4 (31) Counties may not exempt from or effect changes in K.S.A. 2002
5 Supp. 80-121, and amendments thereto.

6 (32) Counties may not exempt from or effect changes in K.S.A. 19-
7 228, and amendments thereto.

8 (33) *Counties may not exempt from or effect changes in the Kansas*
9 *lottery law.*

10 (34) *Counties may not exempt from or effect changes in the Kansas*
11 *electronic gaming law.*

12 (b) Counties shall apply the powers of local legislation granted in
13 subsection (a) by resolution of the board of county commissioners. If no
14 statutory authority exists for such local legislation other than that set forth
15 in subsection (a) and the local legislation proposed under the authority
16 of such subsection is not contrary to any act of the legislature, such local
17 legislation shall become effective upon passage of a resolution of the
18 board and publication in the official county newspaper. If the legislation
19 proposed by the board under authority of subsection (a) is contrary to an
20 act of the legislature which is applicable to the particular county but not
21 uniformly applicable to all counties, such legislation shall become effec-
22 tive by passage of a charter resolution in the manner provided in K.S.A.
23 19-101b, and amendments thereto.

24 (c) Any resolution adopted by a county which conflicts with the re-
25 strictions in subsection (a) is null and void.

26 Sec. 32. K.S.A. 2002 Supp. 79-4805 is hereby amended to read as
27 follows: 79-4805. (a) There is hereby established in the state treasury the
28 problem gambling grant fund. All moneys credited to such fund shall be
29 used only for the awarding of grants under this section. Such fund shall
30 be administered in accordance with this section and the provisions of
31 appropriation acts.

32 (b) All expenditures from the problem gambling grant fund shall be
33 made in accordance with appropriation acts upon warrants of the director
34 of accounts and reports issued pursuant to vouchers approved in the man-
35 ner prescribed by law.

36 (c) There is hereby established a state grant program to provide as-
37 sistance for the direct treatment of persons diagnosed as suffering from
38 pathological gambling and to provide funding *for training and continuing*
39 *education of professionals who treat addictions, marketing programs*
40 *funded pursuant to this section and* for research regarding the impact of
41 gambling on residents of Kansas. Research grants awarded under this
42 section may include, but need not be limited to, grants for determining
43 the effectiveness of education and prevention efforts on the prevalence

1 of pathological gambling in Kansas. All grants shall be made after open
2 solicitation of proposals and evaluation of proposals against criteria estab-
3 lished in rules and regulations adopted by the secretary of the department
4 of social and rehabilitation services. Both public and private entities shall
5 be eligible to apply for and receive grants under the provisions of this
6 section.

7 (d) The secretary of the department of social and rehabilitation serv-
8 ices is hereby authorized to receive moneys from any grants, gifts, con-
9 tributions or bequests made for the purpose of funding grants under this
10 section and to expend such moneys for the purpose for which received.

11 (e) All grants made in accordance with this section shall be made from
12 the problem gambling grant fund. The secretary shall administer the pro-
13 visions of this section and shall adopt rules and regulations establishing
14 criteria for qualification to receive grants and such other matters deemed
15 necessary by the secretary for the administration of this section. Such
16 rules and regulations shall include, but need not be limited to, a require-
17 ment that each recipient of a grant to provide treatment for pathological
18 gamblers report at least annually to the secretary the grantee's measurable
19 achievement of specific outcome goals.

20 (f) For the purpose of this section "pathological gambling" means the
21 disorder by that name described in the most recent edition of the diag-
22 nostic and statistical manual.

23 Sec. 33. K.S.A. 74-8702, 74-8710 and 74-8711 and K.S.A. 2002 Supp.
24 19-101a and 79-4805 are hereby repealed.

25 Sec. 34. This act shall take effect and be in force from and after its
26 publication in the Kansas register.

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