

2-139.

Chapter 2.--AGRICULTURE

Article 1.--STATE AND OTHER AGRICULTURAL SOCIETIES AND FAIRS

2-139. Withholding county aid; causes. The board of county commissioners may withhold county money from any fair association coming under the provisions of this act, which knowingly permits the sale of intoxicating liquor, the operation of any gambling device, or any immoral show or exhibition detrimental to public morals.

History: L. 1929, ch. 1, § 15; May 28.

12-4516.

Chapter 12.--CITIES AND MUNICIPALITIES

Article 45.--CODE FOR MUNICIPAL COURTS; TRIALS AND PROCEEDINGS INCIDENT THERETO

12-4516. Expungement of certain convictions, arrest records and diversion agreements. (a) (1) Except as provided in subsection (b), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

(A) Satisfied the sentence imposed; or

(B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in subsection (b), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto;

(2) a violation of K.S.A. 8-1567, and amendments thereto;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262, and amendments thereto;

(4) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(5) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;

(8) a violation of the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage; or

(9) a violation of K.S.A. 21-3405b, and amendments thereto.

(c) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state: (1) The defendant's full name;

(2) the full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;

(3) the defendant's sex, race and date of birth;
(4) the crime for which the defendant was arrested, convicted or diverted;
(5) the date of the defendant's arrest, conviction or diversion; and
(6) the identity of the convicting court, arresting law enforcement agency or diverting authority. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas parole board.

(d) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(e) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

(A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services;

(B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;

(C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;

(D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(E) upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;

(F) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;

(G) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or

(H) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-1252 and amendments thereto;

(3) the court, in the order of expungement, may specify other circumstances under which the arrest, conviction or diversion is to be disclosed; and

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.

(f) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(g) Subject to the disclosures required pursuant to subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.

(h) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest,

conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or
- (11) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged.

History: L. 1978, ch. 120, § 27; L. 1980, ch. 102, § 1; L. 1981, ch. 158, § 1; L. 1982, ch. 139, § 1; L. 1985, ch. 48, § 13; L. 1985, ch. 78, § 5; L. 1987, ch. 292, § 22; L. 1988, ch. 315, § 1; L. 1989, ch. 38, § 45; L. 1995, ch. 251, § 9; L. 1996, ch. 256, § 10; L. 1998, ch. 131, § 4; July 1.

19-801b.

Chapter 19.--COUNTIES AND COUNTY OFFICERS

Article 8.--SHERIFF

19-801b. Qualifications for office; attendance at law enforcement center required; exception; status and salary while in attendance. (a) No person shall be eligible for nomination, election or appointment to the office of sheriff unless such person:

- (1) Is a citizen of the United States and a qualified elector of the county;
- (2) possesses a high-school education or its recognized equivalent; and
- (3) has never been convicted of or pleaded guilty or entered a plea of *nolo contendere* to any felony charge, a misdemeanor crime of domestic violence as defined in K.S.A. 74-5602 and amendments thereto or to any violation of any federal or state laws or city ordinances relating to gambling, liquor or narcotics.

(b) Every person elected to the office of sheriff for the first time, or anyone reelected or appointed to the office after having been out of the office for five years or more shall be required to attend the law enforcement training center as established by K.S.A. 74-5601 *et seq.*, and amendments thereto, and satisfactorily complete the required training course of not less than 320 hours, unless such person has satisfactorily completed such training course within the five years prior to election or appointment, passes a written competency test and firearms proficiency qualification course developed and administered by the Kansas law enforcement training center or unless the director, as defined in subsection (d) of K.S.A. 74-5602, and amendments thereto, waives the requirements of this subsection as provided in K.S.A. 74-5608a and amendments thereto. Unless the requirements are waived, any person elected or appointed to the office of sheriff who has not attended the law enforcement training center shall hold office on a provisional basis, and such person shall attend the next scheduled training program at the law enforcement training center and satisfactorily complete such training program or the one subsequent to it, or shall forfeit such office.

(c) Each newly elected sheriff of each county who is required to attend the law enforcement training center shall be hired as a deputy sheriff and shall be paid a salary as deputy sheriff while attending the law enforcement training center. The tuition, board, room and travel expense for the sheriff-elect at the law enforcement training center shall be paid by the county.

History: L. 1972, ch. 75, § 2; L. 1974, ch. 114, § 1; L. 1975, ch. 157, § 1; L. 1977, ch. 89, § 1; L. 1982, ch. 322, § 1; L. 1983, ch. 93, § 1; L. 1995, ch. 180, § 5; L. 1997, ch. 168, § 1; May 22.

21-922.

Chapter 21.--CRIMES AND PUNISHMENTS

Article 9.--CRIMES AGAINST PUBLIC MORALS AND DECENCY

21-922. City ordinances for suppression of gambling places.

Cities of the first, second and third class may provide by ordinance for the suppression of common nuisances as hereinbefore defined, and for the search of premises where such nuisances are kept or maintained, and for the seizure and destruction of all gambling tables, gambling devices and other property used or kept in maintaining such nuisances, and for the payment and collection of attorney's fees in such cases.

History: L. 1907, ch. 263, § 6; May 27; R.S. 1923; 21-922.

21-4302.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4302. Gambling; definitions.

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

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

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

- (3) a lottery as defined in this section;
- (4) any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;
- (5) a lottery operated by the state pursuant to the Kansas lottery act;
- (6) any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or
- (7) tribal gaming.

(b) "Lottery" means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

- (1) A lottery operated by the state pursuant to the Kansas lottery act; or
- (2) tribal gaming.

(c) "Consideration" means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant.

Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration.

As used in this subsection, consideration does not include:

- (1) Sums of money paid by or for participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of subsection (c) or (d) of section 501 of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701 and amendments thereto;
- (2) sums of money paid by or for participants in any lottery operated by the state pursuant to the Kansas lottery act;
- (3) sums of money paid by or for participants in any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or
- (4) sums of money paid by or for a person to participate in tribal gaming.

(d) (1) "Gambling device" means:

(A) Any so-called "slot machine" or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) any other machine, mechanical device, electronic device or other contrivance (including, but not limited to, roulette wheels and similar devices) which is equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

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

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

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

(2) Gambling device does not include:

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

(B) any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (i) which when operated does not deliver, as a result of chance, any money, or (ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) any so-called claw, crane, or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or
(D) any machine, mechanical device, electronic device or other contrivance used in tribal gaming.
(e) A "gambling place" is any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.
(f) "Tribal gaming" has the meaning provided by K.S.A. 1998 Supp. 74-9802 and amendments thereto.
(g) "Tribal gaming commission" has the meaning provided by K.S.A. 1998 Supp. 74-9802 and amendments thereto.
History: L. 1969, ch. 180, § 21-4302; L. 1971, ch. 111, § 1; L. 1977, ch. 341, § 1; L. 1987, ch. 292, § 23; L. 1987, ch. 112, § 35; L. 1994, ch. 257, § 1; L. 1996, ch. 256, § 11; July 1.

21-4303.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4303. Gambling.

Gambling is:

- (a) Making a bet; or
- (b) Entering or remaining in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling device.

Gambling is a class B nonperson misdemeanor.

History: L. 1969, ch. 180, § 21-4303; L. 1992, ch. 239, § 213; L. 1993, ch. 291, § 161; July 1.

21-4304.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4304. Commercial gambling.

Commercial gambling is:

- (a) Operating or receiving all or part of the earnings of a gambling place;
- (b) Receiving, recording, or forwarding bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possessing facilities to do so;
- (c) For gain, becoming a custodian of anything of value bet or offered to be bet;
- (d) Conducting a lottery, or with intent to conduct a lottery possessing facilities to do so; or
- (e) Setting up for use or collecting the proceeds of any gambling device.

Commercial gambling is a severity level 8, nonperson felony.

History: L. 1969, ch. 180, § 21-4304; L. 1992, ch. 239, § 215; L. 1993, ch. 291, § 163; July 1.

21-4305.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4305. Permitting premises to be used for commercial gambling.

Permitting premises to be used for commercial gambling is intentionally:

- (a) Granting the use or allowing the continued use of a place as a gambling place; or
- (b) Permitting another to set up a gambling device for use in a place under the offender's control.

Permitting premises to be used for commercial gambling is a class B nonperson misdemeanor.

History: L. 1969, ch. 180, § 21-4305; L. 1992, ch. 239, § 216; L. 1993, ch. 291, § 164; July 1.

21-4306.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4306. Dealing in gambling devices.

(a) Dealing in gambling devices is manufacturing, transferring or possessing with intent to transfer any gambling device or sub-assembly or essential part thereof.

(b) Proof of possession of any device designed exclusively for gambling purposes, which device is not set up for use or which is not in a gambling place, creates a presumption of possession with intent to transfer.

(c) Dealing in gambling devices is a severity level 8, nonperson felony.

(d) It shall be a defense to a prosecution under this section that the gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950.

(e) It shall be a defense to a prosecution under this section that the gambling device or sub-assembly or essential part thereof is manufactured, transferred or possessed by a manufacturer registered under the federal gambling devices act of 1962 (15 U.S.C. 1171 *et seq.*) or a transporter under contract with such manufacturer with intent to transfer for use:

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

(2) by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission;

(3) in a state other than the state of Kansas; or

(4) tribal gaming.

History: L. 1969, ch. 180, § 21-4306; L. 1979, ch. 93, § 1; L. 1989, ch. 94, § 1; L. 1992, ch. 239, § 217; L. 1993, ch. 291, § 165; L. 1996, ch. 256, § 12; July 1.

21-4307.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4307. Possession of a gambling device.

(a) Possession of a gambling device is knowingly possessing or having custody or control, as owner, lessee, agent, employee, bailee, or otherwise, of any gambling device.

Possession of a gambling device is a class B nonperson misdemeanor.

(b) It shall be a defense to a prosecution under this section that the gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950.

(c) It shall be a defense to a prosecution under this section that the gambling device is possessed or under custody or control of a manufacturer registered under the federal gambling devices act of 1962 (15 U.S.C. 1171 *et seq.*) or a transporter under contract with such manufacturer with intent to transfer for use:

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

(2) by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission;

(3) in a state other than the state of Kansas; or

(4) in tribal gaming.

History: L. 1969, ch. 180, § 21-4307; L. 1979, ch. 93, § 2; L. 1989, ch. 94, § 2; L. 1992, ch. 239, § 218; L. 1993, ch. 291, § 166; L. 1996, ch. 256, § 13; July 1.

21-4308.

Chapter 21.--CRIMES AND PUNISHMENTS

PART II.--PROHIBITED CONDUCT

Part 2.--Prohibited Conduct

Article 43.--CRIMES AGAINST THE PUBLIC MORALS

21-4308. Installing communication facilities for gamblers.

Installing communication facilities for gamblers is:

(a) Installing communication facilities in a place which the person who installs the facilities knows is a gambling place;

(b) Installing communication facilities knowing that they will be used principally for the purpose of transmitting information to be used in making or settling bets; or

(c) Knowing that communication facilities are being used principally for the purpose of transmitting information to be used in making or settling bets, allowing their continued use. When any public utility providing telephone communications service is notified in writing by a state or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used principally for the purpose of transmitting or receiving gambling information, it shall discontinue or refuse the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any such public utility for any act done in compliance with any notice received from a law enforcement agency.

Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate

determination, as otherwise provided by law, in a court of competent jurisdiction, that such facility should not be discontinued or removed, or should be restored.

Installing communications facilities for gamblers is a severity level 8, nonperson felony.

History: L. 1969, ch. 180, § 21-4308; L. 1992, ch. 239, § 219; L. 1993, ch. 291, § 167; July 1.

21-4619b.

Chapter 21.--CRIMES AND PUNISHMENTS

PART III.--CLASSIFICATION OF CRIMES AND SENTENCING

Part 2.--Prohibited Conduct

Article 46.--SENTENCING

21-4619b.

History: L. 1978, ch. 120, § 28; L. 1979, ch. 90, § 7; L. 1980, ch. 102, § 2; L. 1980, ch. 103, § 1; L. 1981, ch. 158, § 2; L. 1982, ch. 139, § 2; L. 1984, ch. 39, § 35; L. 1985, ch. 48, § 15; L. 1986, ch. 129, § 1; L. 1987, ch. 292, § 24; L. 1988, ch. 315, § 2; L. 1989, ch. 96, § 1; L. 1990, ch. 105, § 1; L. 1992, ch. 239, § 247; L. 1993, ch. 253, § 16; L. 1993, ch. 291, § 186; L. 1994, ch. 291, § 48; L. 1995, ch. 251, § 15; L. 1996, ch. 256, § 14; Repealed, L. 1998, ch. 131, § 8; July 1.

22-2512.

Chapter 22.--CRIMINAL PROCEDURE

KANSAS CODE OF CRIMINAL PROCEDURE

Article 25.--SEARCH AND SEIZURE

22-2512. Custody and disposition of property seized.

(1) Property seized under a search warrant or validly seized without a warrant shall be safely kept by the officer seizing the same unless otherwise directed by the magistrate, and shall be so kept as long as necessary for the purpose of being produced as evidence on any trial. The property seized may not be taken from the officer having it in custody so long as it is or may be required as evidence in any trial. The officer seizing the property shall give a receipt to the person detained or arrested particularly describing each article of property being held and shall file a copy of such receipt with the magistrate before whom the person detained or arrested is taken. Where seized property is no longer required as evidence in the prosecution of any indictment or information, the court which has jurisdiction of such property may transfer the same to the jurisdiction of any other court, including courts of another state or federal courts, where it is shown to the satisfaction of the court that such property is required as evidence in any prosecution in such other court.

(2) When property seized is no longer required as evidence, it shall be disposed of as follows:

(a) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(b) money shall be restored to the owner unless it was contained in a slot machine or otherwise used in unlawful gambling or lotteries, in which case it shall be forfeited, and shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

(c) property which is unclaimed or the ownership of which is unknown shall be sold at public auction to be held by the sheriff and the proceeds, less the cost of sale and any storage charges incurred in preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

(d) articles of contraband shall be destroyed, except that any such articles the disposition of which is otherwise provided by law shall be dealt with as so provided and any such articles the disposition of which is not otherwise provided by law and which may be capable of innocent use may in the discretion of the court be sold and the proceeds disposed of as provided in subsection (2)(b);

(e) firearms, ammunition, explosives, bombs and like devices, which have been used in the commission of crime, may be returned to the rightful owner, or in the discretion of the court having jurisdiction of the property, destroyed or forfeited to the Kansas bureau of investigation as provided in K.S.A. 21-4206 and amendments thereto;

(f) controlled substances forfeited under the uniform controlled substances act shall be dealt with as provided under K.S.A. 60-4101 through 60-4126 and amendments thereto;

(g) unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

History: L. 1970, ch. 129, § 22-2512; L. 1973, ch. 106, § 15; L. 1978, ch. 105, § 7; L. 1987, ch. 114, § 1; L. 1994, ch. 348, § 6; L. 1996, ch. 247, § 1; July 1.

22-2515.

Chapter 22.--CRIMINAL PROCEDURE

KANSAS CODE OF CRIMINAL PROCEDURE

Article 25.--SEARCH AND SEIZURE

22-2515. Same; order; application; crimes for which order may be issued; disclosure and use of contents of wire, oral or electronic communications; effect on privileged communications.

(a) An *ex parte* order authorizing the interception of a wire, oral or electronic communication may be issued by a judge of competent jurisdiction. The attorney general, district attorney or county attorney may make an application to any judge of competent jurisdiction for an order authorizing the interception of a wire, oral or electronic communication by an investigative or law enforcement officer and agency having responsibility for the investigation of the offense regarding which the application is made, when such interception may provide evidence of the commission of any of the following offenses:

- (1) Any crime directly and immediately affecting the safety of a human life which is a felony;
- (2) murder;
- (3) kidnapping;
- (4) treason;
- (5) sedition;
- (6) racketeering;
- (7) commercial bribery;
- (8) robbery;
- (9) theft, if the offense would constitute a felony;
- (10) bribery;
- (11) any violation of the uniform controlled substances act, if the offense would constitute a felony;
- (12) commercial gambling;
- (13) sports bribery;
- (14) tampering with a sports contest;
- (15) aggravated escape;
- (16) aggravated failure to appear;
- (17) arson; or
- (18) any conspiracy to commit any of the foregoing offenses.

(b) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(c) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of such officer's official duties.

(d) Any person who has received, by any means authorized by this act or by chapter 119 of title 18 of the United States code or by a like statute of any other state, any information concerning a wire, oral or electronic communication, or evidence derived therefrom, intercepted in accordance with the provisions of this act, may disclose the contents of such communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court, or before any grand jury, of this state or of the United States or of any other state.

(e) No otherwise privileged wire, oral or electronic communication intercepted in accordance with, or in violation of, the provisions of this act or of chapter 119 of title 18 of the United States code shall lose its privileged character.

(f) When an investigative or law enforcement officer, while engaged in intercepting wire, oral or electronic communications in the manner authorized by this act, intercepts wire, oral or electronic communications relating to offenses other than those specified in the order authorizing the interception of the wire, oral or electronic communication, the contents thereof and evidence derived therefrom may be disclosed or used as provided in subsections (b) and (c) of this section. Such contents and evidence derived therefrom may be used under subsection (d) of this section when authorized or approved by a judge of competent jurisdiction, where such judge finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this act, or with chapter 119 of title 18 of the United States code.

History: L. 1974, ch. 150, § 2; L. 1976, ch. 165, § 3; L. 1988, ch. 117, § 2; L. 1992, ch. 239, § 250; L. 1993, ch. 291, § 187; July 1.

22-2530.

Chapter 22.--CRIMINAL PROCEDURE

KANSAS CODE OF CRIMINAL PROCEDURE

Article 25.--SEARCH AND SEIZURE

22-2530. Copy of search warrant to property owner.

If a search warrant is executed which authorizes a search of real property based upon an alleged offense involving gambling, obscenity, prostitution, controlled substances or liquor, a copy of the warrant shall be delivered to the last known address of the owner of the property within two business days, excluding Saturdays, Sundays and legal holidays, after execution of the warrant if such address is different from the address of the property for which the warrant was issued.

History: L. 1990, ch. 114, § 6; July 1.

22-3101.

Chapter 22.--CRIMINAL PROCEDURE

KANSAS CODE OF CRIMINAL PROCEDURE

Article 31.--INQUISITIONS IN CRIMINAL CASES

22-3101. Inquisitions; witnesses.

(1) If the attorney general, an assistant attorney general, the county attorney or the district attorney of any county is informed or has knowledge of any alleged violation of the laws of Kansas, such person may apply to a district judge

to conduct an inquisition. An application for an inquisition shall be in writing, verified under oath, setting forth the alleged violation of law. Upon the filing of the application, the judge with whom it is filed, on the written praecipe of such attorney, shall issue a subpoena for the witnesses named in such praecipe commanding them to appear and testify concerning the matters under investigation. Such subpoenas shall be served and returned as subpoenas for witnesses in criminal cases in the district court.

(2) If the attorney general, assistant attorney general, county attorney or district attorney, or in the absence of the county or district attorney a designated assistant county or district attorney, is informed or has knowledge of any alleged violation in this state pertaining to gambling, intoxicating liquors, criminal syndicalism, racketeering, bribery, tampering with a sports contest, narcotic or dangerous drugs or any violation of any law where the accused is a fugitive from justice, such attorney shall be authorized to issue subpoenas for such persons as such attorney has any reason to believe or has any information relating thereto or knowledge thereof, to appear before such attorney at a time and place to be designated in the subpoena and testify concerning any such violation. For such purposes, any prosecuting attorney shall be authorized to administer oaths. If an assistant county or district attorney is designated by the county or district attorney for the purposes of this subsection, such designation shall be filed with the administrative judge of such judicial district.

(3) Each witness shall be sworn to make true answers to all questions propounded to such witness touching the matters under investigation. The testimony of each witness shall be reduced to writing and signed by the witness. Any person who disobeys a subpoena issued for such appearance or refuses to be sworn as a witness or answer any proper question propounded during the inquisition, may be adjudged in contempt of court and punished by fine and imprisonment.

History: L. 1970, ch. 129, § 22-3101; L. 1976, ch. 145, § 107; L. 1994, ch. 348, § 7; July 1.

22-3901.

Chapter 22.--CRIMINAL PROCEDURE

KANSAS CODE OF CRIMINAL PROCEDURE

Article 39.--ABATEMENT OF COMMON NUISANCES

22-3901. Scope.

The following unlawful activities and the use of real and personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

- (a) Commercial gambling;
- (b) dealing in gambling devices;
- (c) possession of gambling devices;
- (d) promoting obscenity;
- (e) promoting prostitution;
- (f) habitually promoting prostitution;
- (g) violations of any law regulating controlled substances;
- (h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated; or
- (i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated.

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

History: L. 1970, ch. 129, § 22-3901; L. 1990, ch. 114, § 1; July 1.

28-226.

Chapter 28.--FEES AND SALARIES

Article 2.--COUNTIES BETWEEN 130,000 AND 185,000

28-226. Penalties for violations; forfeiture of office.

Any officer, deputy, assistant or clerk mentioned in this act or whose salary or compensation is herein provided for or authorized, who shall ask or receive any fee or reward in money or its equivalent not authorized by this act or the laws of this state, or who shall fail to make out and file any report herein provided for, or who shall fail to pay to the county treasurer any fees or income collected by him in the time and manner prescribed by this act, or who shall fail, neglect or refuse to perform any duty enjoined upon him by this act, shall for each offense be adjudged guilty of a misdemeanor and fined in any sum not exceeding three hundred dollars or confined in the county jail for not to exceed one year or shall receive a sentence of both such fine and imprisonment. And such failure to perform any of the duties prescribed by this act shall be a forfeiture of office and upon the judgment of any court of competent jurisdiction in a civil action that such officer, deputy, assistant or clerk has forfeited such office, he shall stand suspended during any appeal therefrom. Except the fees of the county attorney in civil and criminal proceedings under the laws relating to intoxicating liquors and gambling and otherwise provided by law.

History: L. 1937, ch. 233, § 19; March 27.

28-318.

Chapter 28.--FEES AND SALARIES

Article 3.--CERTAIN COUNTIES OVER 140,000

28-318. Penalties for violation of 1911 act [*].

Any officer, deputy, assistant or clerk mentioned in this act or whose salary or compensation is herein provided for or authorized, who shall ask or receive any fee or reward in money or its equivalent not authorized by this act or the laws of this state, or who shall fail to make out and file any report herein provided for, or who shall fail to pay to the county treasurer any fees or income collected by him in the time and manner prescribed by this act [*], or who shall fail, neglect or refuse to perform any duty enjoined upon him by this act [*], shall for each offense be adjudged guilty of a misdemeanor and fined in any sum not exceeding three hundred dollars or confined in the county jail for not to exceed one year or shall receive a sentence of both such fine and imprisonment. And such failure to perform any of the duties prescribed by this act shall be a forfeiture of office and upon the judgment of any court of competent jurisdiction in a civil action that such officer, deputy, assistant or clerk has forfeited such office, he shall stand suspended during any appeal therefrom. Except the fees of the county attorney in civil and criminal proceedings under the laws relating to intoxicating liquors and gambling and otherwise provided by law.

History: L. 1911, ch. 190, § 19; March 3; R.S. 1923, 28-318.

28-1006.

Chapter 28.--FEES AND SALARIES

Article 10.--COUNTIES DESIGNATED URBAN AREAS

28-1006. Fees and income collected by officials to county general fund, exceptions.

All county officers and employees shall collect from others than the county in which said offices are located all fees now authorized by law. All such fees and income of their respective offices from every source whatsoever, including all notary fees collected by any officer, deputy or clerk in any proceeding pending or to become pending, filed or to be filed in said office, not herein specifically authorized to be retained by them, shall be paid over on the first and fifteenth days of each month, or if either of said dates be a Sunday or legal holiday, then on the next secular day, to the county treasurer, accompanied by a sworn statement in such form as the board of county commissioners may prescribe, to the effect that all fees and other income collected are correctly set forth therein. All such fees and income shall be placed by said treasurer to the credit of the county's general fund. The county attorney may receive and retain the fees otherwise provided by law for his or her services in prosecutions and proceedings, both civil and criminal, against violators of the laws relating to intoxicating liquors and gambling.

History: L. 1965, ch. 207, § 6; L. 1969, ch. 206, § 3; L. 1971, ch. 140, § 1; L. 1976, ch. 145, § 154; L. 1977, ch. 112, § 15; May 14.

28-1006.

Chapter 28.--FEES AND SALARIES

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All county officers and employees shall collect from others than the county in which said offices are located all fees now authorized by law. All such fees and income of their respective offices from every source whatsoever, including all notary fees collected by any officer, deputy or clerk in any proceeding pending or to become pending, filed or to be filed in said office, not herein specifically authorized to be retained by them, shall be paid over on the first and fifteenth days of each month, or if either of said dates be a Sunday or legal holiday, then on the next secular day, to the county treasurer, accompanied by a sworn statement in such form as the board of county commissioners may prescribe, to the effect that all fees and other income collected are correctly set forth therein. All such fees and income shall be placed by said treasurer to the credit of the county's general fund. The county attorney may receive and retain the fees otherwise provided by law for his or her services in prosecutions and proceedings, both civil and criminal, against violators of the laws relating to intoxicating liquors and gambling.

History: L. 1965, ch. 207, § 6; L. 1969, ch. 206, § 3; L. 1971, ch. 140, § 1; L. 1976, ch. 145, § 154; L. 1977, ch. 112, § 15; May 14.

41-311.

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES

Article 3.--LICENSING AND RELATED PROVISIONS; CITY OPTION

41-311. Qualifications for licensure.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

- (1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;
- (2) who has been convicted of a felony under the laws of this state, any other state or the United States;
- (3) who has had a license revoked for cause under the provisions of this act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;
- (4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;
- (5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;
- (6) who is not at least 21 years of age;
- (7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;
- (8) who intends to carry on the business authorized by the license as agent of another;
- (9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);
- (10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702 and amendments thereto shall be eligible to receive a retailer's license under the Kansas liquor control act;
- (11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least 3/4 of the period for which the license is to be issued; or
- (12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license.

(b) No retailer's license shall be issued to:

- (1) A person who is not a resident of this state;
- (2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;
- (3) a person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages;
- (4) a person who has beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;
- (5) a copartnership, unless all of the copartners are qualified to obtain a license;
- (6) a corporation; or
- (7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

- (1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

- (2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;
 - (3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;
 - (4) an individual who is not a resident of this state; or
 - (5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application.
- (d) No distributor's license shall be issued to:
- (1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;
 - (2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;
 - (3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;
 - (4) an individual who is not a resident of this state; or
 - (5) an individual who has not been a resident of this state for at least 10 years immediately preceding the date of application, except that:
 - (A) A wholesaler of cereal malt beverages properly licensed on September 1, 1948, shall be eligible for a beer distributor's license; and
 - (B) a person who has been a resident of the state for at least one year immediately preceding the date of application shall be eligible for a beer distributor's license.
- (e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.
- (f) No microbrewery license or farm winery license shall be issued to a:
- (1) Person who is not a resident of this state;
 - (2) person who has not been a resident of this state for at least four years immediately preceding the date of application;
 - (3) person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages other than that produced by such brewery or winery;
 - (4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702 and amendments thereto;
 - (5) copartnership, unless all of the copartners are qualified to obtain a license;
 - (6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or
 - (7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (d)(4), (f)(1) and (f)(2) shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

- (1) Has been convicted of a felony under the laws of this state, any other state or the United States;
- (2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;
- (3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;
- (4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or
- (5) is less than 21 years of age.

History: L. 1949, ch. 242, § 27; L. 1953, ch. 238, § 3; L. 1963, ch. 266, § 1; L. 1970, ch. 186, § 1; L. 1973, ch. 199, § 1; L. 1975, ch. 249, § 1; L. 1982, ch. 210, § 1; L. 1983, ch. 161, § 5; L. 1985, ch. 171, § 9; L. 1985, ch. 170, § 27; L. 1987, ch. 182, § 21; L. 1987, ch. 182, § 22; L. 1992, ch. 201, § 5; L. 1995, ch. 258, § 2; L. 1996, ch. 154, § 4; July 1.

41-2601.

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES

Article 26.--LICENSURE AND REGULATION OF SALE OF LIQUOR BY THE DRINK

41-2601. Definitions.

As used in the club and drinking establishment act:

- (a) The following terms shall have the meanings provided by K.S.A. 41-102 and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."
- (b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.
- (c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.
- (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701 and amendments thereto.
- (e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.
- (f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.
- (g) "Club" means a class A or class B club.
- (h) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.
- (i) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.
- (j) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.
- (k) "Food service establishment" has the meaning provided by K.S.A. 36-501 and amendments thereto.

- (l) "Hotel" has the meaning provided by K.S.A. 36-501 and amendments thereto.
- (m) "Minor" means a person under 21 years of age.
- (n) "Morals charge" means a charge involving prostitution; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.
- (o) "Restaurant" means:
- (1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;
 - (2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and
 - (3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment.
- (p) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212 and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.
- (q) "Secretary" means the secretary of revenue.
- (r) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645 and amendments thereto.
- History:** L. 1965, ch. 316, § 1; L. 1969, ch. 243, § 1; L. 1974, ch. 196, § 1; L. 1975, ch. 252, § 1; L. 1977, ch. 169, § 1; L. 1978, ch. 186, § 3; L. 1979, ch. 152, § 5; L. 1981, ch. 200, § 2; L. 1985, ch. 171, § 8; L. 1985, ch. 168, § 4; L. 1987, ch. 182, § 60; L. 1989, ch. 95, § 11; L. 1990, ch. 179, § 5; L. 1995, ch. 266, § 2; July 1.

41-2611.

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES

Article 26.--LICENSURE AND REGULATION OF SALE OF LIQUOR BY THE DRINK

41-2611. Revocation or suspension of license; grounds for.

The director may revoke or suspend any license issued pursuant to the club and drinking establishment act for any one or more of the following reasons:

- (a) The licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.
- (b) The licensee has violated any of the provisions of this act or any rules or regulations adopted hereunder.
- (c) The licensee has become ineligible to obtain a license or permit under this act.
- (d) The licensee's manager or employee has been intoxicated while on duty.
- (e) The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee.
- (f) There has been a violation of a provision of the laws of this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge, on premises where alcoholic liquor is sold by such licensee.
- (g) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal wagering occupational stamp issued by the United States treasury department.
- (h) The licensee, or its managing officers or any employee, has purchased and displayed, on premises where alcoholic liquor is sold by such licensee, a federal coin operated gambling device stamp for the premises issued by the United States treasury department.
- (i) The licensee holds a license as a class B club, drinking establishment or caterer and has been found guilty of a violation of article 10 of chapter 44 of the Kansas Statutes Annotated under a decision or order of the Kansas human

rights commission which has become final or such licensee has been found guilty of a violation of K.S.A. 21-4003 and amendments thereto.

History: L. 1965, ch. 316, § 11; L. 1978, ch. 186, § 4; L. 1979, ch. 152, § 7; L. 1987, ch. 182, § 66; L. 1991, ch. 148, § 1; July 1.

41-2708.

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES

Article 27.--CEREAL MALT BEVERAGES

41-2708. Revocation or suspension of license; grounds; appeal; effect of suspension or revocation order.

(a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has violated any of the provisions of this act or any rules or regulations made by the board or the city, as the case may be;

(3) the licensee has become ineligible to obtain a license under this act;

(4) drunkenness of the licensee or permitting any intoxicated person to remain in the licensee's place of business;

(5) the sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

(6) the nonpayment of any license fees;

(7) permitting any gambling in or upon the licensee's place of business;

(8) permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose;

(9) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;

(10) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or

(11) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102 and amendments thereto.

(b) The provisions of subsections (a)(8) and (11) shall not apply if the place of business or premises are also currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(c) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to the former licensee, or to any person acting for or on the former licensee's behalf, for a period of six months thereafter.

History: L. 1937, ch. 214, § 6; L. 1949, ch. 245, § 1; L. 1951, ch. 302, § 2; L. 1965, ch. 316, § 37; L. 1973, ch. 202, § 2; L. 1976, ch. 145, § 195; L. 1985, ch. 171, § 7; L. 1987, ch. 182, § 104; L. 1995, ch. 258, § 5; July 1.

45-221.

Chapter 45.--PUBLIC RECORDS, DOCUMENTS AND INFORMATION

Article 2.--RECORDS OPEN TO PUBLIC

45-221. Certain records not required to be open; separation of open and closed information required; statistics and records over 70 years old open.

(a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

- (15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.
- (16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:
- (A) The information which the agency maintains on computer facilities; and
 - (B) the form in which the information can be made available using existing computer programs.
- (17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.
- (18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.
- (19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.
- (20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.
- (21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:
- (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or
 - (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.
- (22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:
- (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or
 - (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.
- (23) Library patron and circulation records which pertain to identifiable individuals.
- (24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.
- (25) Records which represent and constitute the work product of an attorney.
- (26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.
- (27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.
- (28) Sealed bids and related documents, until a bid is accepted or all bids rejected.
- (29) Correctional records pertaining to an identifiable inmate or release, except that:
- (A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;
 - (B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;
 - (C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 *et seq.* and amendments thereto, shall not be disclosed; and
 - (D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

- (30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.
- (31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.
- (32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.
- (33) Engineering and architectural estimates made by or for any public agency relative to public improvements.
- (34) Financial information submitted by contractors in qualification statements to any public agency.
- (35) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.
- (36) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.
- (37) Information which would reveal the precise location of an archeological site.
- (38) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.
- (39) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 1998 Supp. 40-2c20, and amendments thereto.
- (40) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.
- (41) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 1998 Supp. 40-2,156, and amendments thereto.
- (42) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.
- (43) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.
- (44) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.
- (b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.
- (c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.
- (d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.
- (e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.
- (f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or

restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

History: L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 107, § 8; L. 1995, ch. 44, § 1; L. 1995, ch. 257, § 6; L. 1996, ch. 256, § 15; L. 1997, ch. 126, § 44; L. 1997, ch. 181, § 15; July 1.

46-2301.

Chapter 46.--LEGISLATURE

Article 23.--INDIAN GAMING COMPACTS

46-2301. Definitions.

As used in this act:

- (a) "Class III gaming" has the meaning provided by the Indian gaming regulatory act (25 U.S.C. 2701 *et seq.*).
- (b) "Gaming compact" means a tribal-state compact regarding class III gaming as provided by section 11 of the Indian gaming regulatory act (25 U.S.C. 2710).

History: L. 1993, ch. 4, § 1; March 4.

46-2302.

Chapter 46.--LEGISLATURE

Article 23.--INDIAN GAMING COMPACTS

46-2302. Negotiation of compacts; submission to legislature; approval or rejection; attorney general as legal counsel; compact provisions; report of governor to legislature.

(a) Any request by a tribe for negotiation of a gaming compact with the state of Kansas, including a request for renegotiation of an existing gaming compact, received on or after the effective date of this act shall be submitted in writing to the governor.

(b) The governor or the governor's designated representatives are authorized to negotiate gaming compacts on behalf of the state of Kansas. At the conclusion of negotiations, the governor shall submit the proposed compact to the joint committee on gaming compacts for the joint committee's recommendations as to approval or modification of the proposed compact.

(c) If the joint committee recommends modification of a proposed compact submitted by the governor, the governor or the governor's representatives may resume negotiations in accordance with the joint committee's recommendations and the modified proposed compact shall be submitted to the joint committee in the same manner as the original proposed compact. Within 5 days after receiving the joint committee's recommended modifications, the governor shall notify the joint committee, in writing, as to whether or not the governor has resumed negotiations. Within 10 days after receipt of notice that the governor has not resumed negotiations, or if the governor fails to notify the joint committee that the governor has resumed negotiations, the joint committee shall vote to recommend approval or rejection of the proposed compact or shall vote to make no recommendation on the proposed compact.

(d) (1) If the legislature is in session when the joint committee on gaming compacts votes to recommend approval or rejection of a proposed compact or votes to make no recommendation on a proposed compact, as authorized by this section, the joint committee shall introduce in each house of the legislature, within five days after the joint committee's vote, a resolution approving the proposed compact as submitted by the governor. Each resolution shall

be accompanied by the report of the joint committee recommending that the resolution be adopted or not be adopted or reporting the resolution without recommendation. If, within 10 days after introduction of the resolutions, a majority of the members of each house votes to adopt the resolution introduced in such house, the proposed compact shall be considered to have been approved by the legislature and the governor is authorized to execute the compact on behalf of the state. Each house of the legislature shall vote on the resolution introduced in such house within 10 days after introduction unless the other house has already voted against adoption of the resolution introduced in such other house.

(2) If the legislature is not in session when the joint committee on gaming compacts votes to recommend approval or rejection of a proposed compact or votes to make no recommendation on a proposed compact, as authorized by this section, the joint committee shall notify the legislative coordinating council of the joint committee's action within five days after such action. If, within 30 days after receiving such notice, the legislative coordinating council votes, by a vote of five members of the council, to approve the proposed compact, the compact shall be considered to have been approved by the legislative coordinating council and the governor is authorized to execute the compact on behalf of the state.

(3) Neither the legislature nor the legislative coordinating council has the authority to amend or otherwise modify any proposed gaming compact.

(e) The attorney general shall be the legal counsel for the governor or the governor's representatives in negotiating a gaming compact under this section and for the joint committee on gaming compacts in reviewing proposed compacts.

(f) A gaming compact negotiated on behalf of the state under this section shall contain:

(1) A provision recognizing the right of each party to the compact to request that the compact be renegotiated or replaced by a new compact, including the right of the legislature by concurrent resolution to request renegotiation or replacement of the compact, and providing the terms under which either party, including the legislature, may request a renegotiation or the negotiation of a new compact; and

(2) a provision that, in the event of a request for a renegotiation or a new compact, the existing compact will remain in effect until renegotiated or replaced.

(g) The governor, or the governor's designated representatives, and the attorney general shall report to the joint committee on gaming compacts, at such times as requested by the joint committee, regarding gaming compacts negotiated and prospective negotiations.

History: L. 1993, ch. 4, § 2; March 4.

46-2303.

Chapter 46.--LEGISLATURE

Article 23.--INDIAN GAMING COMPACTS

46-2303. Joint committee on gaming compacts.

(a) There is hereby established the joint committee on gaming compacts, which shall consist of three senators and three members of the house of representatives. Of the senators, two shall be appointed by the president of the senate and one by the minority leader of the senate. Of the members of the house of representatives, two shall be appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives.

(b) The joint committee on gaming compacts:

(1) May establish and transmit to the governor proposed guidelines reflecting the public policies and state interests, as embodied in the constitution, statutes and case law of the state of Kansas, consistent with the Indian gaming regulatory act (25 U.S.C. 2701 et seq.), that the joint committee will consider in reviewing proposed compacts;

(2) may recommend to the governor that any gaming compact provide for the imposition and collection of state sales and excise taxes on sales of nongaming goods and services to persons other than tribal members and imposition and collection of state income tax on revenues derived from sales of nongaming goods and services;

(3) may hold public hearings on proposed gaming compacts submitted to the joint committee by the governor; and

(4) shall, in accordance with K.S.A. 46-2302, recommend modification of proposed gaming compacts submitted by the governor and introduce resolutions approving proposed gaming compacts submitted by the governor and recommend that such resolutions be adopted or be not adopted, or report such resolutions without recommendation, and notify the governor, in writing, of the joint committee's action.

(c) The president of the senate shall designate a senator member to be chairperson of the joint committee on gaming compacts in even-numbered years and the vice-chairperson in odd-numbered years. The speaker of the house of representatives shall designate a representative member to be chairperson of the committee in odd-numbered years and the vice-chairperson in even-numbered years. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(d) A quorum of the joint committee on gaming compacts shall be four. Actions of the joint committee recommending that a resolution approving a proposed compact be adopted or not be adopted shall be only on the affirmative vote of four or more members of the joint committee, at least two of whom shall be senators and at least two of whom shall be members of the house of representatives. Action of the joint committee to report without recommendation a resolution approving a compact may be on the affirmative vote of any three or more members of the committee. All other actions of the joint committee may be taken by a majority of those present when there is a quorum.

(e) The joint committee on gaming compacts may meet at any time and at any place within the state on the call of the chairperson.

(f) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on gaming compacts to the extent that the same do not conflict with the specific provisions of this act applicable to the joint committee.

(g) In accordance with K.S.A. 46-1204 and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on gaming compacts.

(h) The joint committee on gaming compacts may introduce such legislation as it considers necessary in performing its functions.

History: L. 1993, ch. 4, § 3; March 4.

50-123.

Chapter 50.--UNFAIR TRADE AND CONSUMER PROTECTION

Article 1.--RESTRAINT OF TRADE

50-123. Transactions declared gambling and criminal.

All pretended purchases and sales or contracts and agreements for the pretended purchase and sale of the commodities aforesaid, in manner aforesaid, wherein there is, in fact, no actual purchase and sale or sale and purchase of such commodities for or on account of the party or parties thereto, are hereby declared gambling and criminal acts, whether the order or contract for the pretended purchase or sale of such property purports to be offered, accepted, executed or consummated in this state or in any other state or country: *Provided*, The offer to make such pretended purchase or sale of said property is placed or given or communicated from this state; and any person violating the provisions of this section shall be guilty of a felony.

History: L. 1909, ch. 121, § 2; May 29; R.S. 1923, 50-123.

60-4104.

Chapter 60.--PROCEDURE, CIVIL

Article 41.--ASSET SEIZURE AND FORFEITURE

60-4104. Covered offenses and conduct giving rise to forfeiture.

Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;
- (c) theft which is classified as a felony violation pursuant to K.S.A. 21-3701, and amendments thereto, in which the property taken was livestock;
- (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments thereto;
- (e) money laundering, K.S.A. 65-4142, and amendments thereto;
- (f) gambling, K.S.A. 21-4303, and amendments thereto, and commercial gambling, K.S.A. 21-4304, and amendments thereto;
- (g) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- (h) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- (i) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission.

History: L. 1994, ch. 339, § 4; July 1.

74-5605.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 56.--LAW ENFORCEMENT TRAINING CENTER; TRAINING COMMISSION

74-5605. Qualifications of applicant for training course; requirements.

Every applicant for admission to a course for police officers or law enforcement officers conducted by the training center shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto. Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant shall furnish to the director a statement from the applicant's appointing authority or agency head certifying the applicant's fulfillment of the following requirements. The applicant:

- (a) Is a United States citizen;
- (b) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;
- (c) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime which is a felony or its equivalent under the uniform code of military justice;
- (d) has not been convicted, does not have an expunged conviction, has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act;

- (e) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;
- (f) is of good moral character;
- (g) has completed a psychological test approved by the commission;
- (h) is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties; and
- (i) is at least 21 years of age.

History: L. 1968, ch. 81, § 5; L. 1982, ch. 322, § 6; L. 1983, ch. 256, § 4; L. 1986, ch. 301, § 1; L. 1987, ch. 277, § 4; L. 1995, ch. 180, § 4; L. 1996, ch. 256, § 16; L. 1997, ch. 168, § 3; May 22.

74-5605.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 56.--LAW ENFORCEMENT TRAINING CENTER; TRAINING COMMISSION

74-5605. Qualifications of applicant for training course; requirements.

Every applicant for admission to a course for police officers or law enforcement officers conducted by the training center shall be an employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto; an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state; or a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-8222, and amendments thereto. Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant shall furnish to the director a statement from the applicant's appointing authority or agency head certifying the applicant's fulfillment of the following requirements. The applicant:

- (a) Is a United States citizen;
- (b) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;
- (c) has not been convicted, does not have an expunged conviction, and on and after July 1, 1995, has not been placed on diversion by any state or the federal government for a crime which is a felony or its equivalent under the uniform code of military justice;
- (d) has not been convicted, does not have an expunged conviction, has not been placed on diversion by any state or the federal government for a misdemeanor crime of domestic violence or its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act;
- (e) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement;
- (f) is of good moral character;
- (g) has completed a psychological test approved by the commission;
- (h) is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties; and
- (i) is at least 21 years of age.

History: L. 1968, ch. 81, § 5; L. 1982, ch. 322, § 6; L. 1983, ch. 256, § 4; L. 1986, ch. 301, § 1; L. 1987, ch. 277, § 4; L. 1995, ch. 180, § 4; L. 1996, ch. 256, § 16; L. 1997, ch. 168, § 3; May 22.

74-8702.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8702. Definitions.

As used in this act, unless the context otherwise requires:

- (a) "Commission" means the Kansas lottery commission.
- (b) "Executive director" means the executive director of the Kansas lottery.
- (c) "Gaming equipment" means any electric, electronic or mechanical device or other equipment unique to the Kansas lottery used directly in the operation of any lottery and in the determination of winners pursuant to this act.
- (d) "Kansas lottery" means the state agency created by this act to operate a lottery or lotteries pursuant to this act.
- (e) "Lottery retailer" means any person with whom the Kansas lottery has contracted to sell lottery tickets or shares, or both, to the public.
- (f) "Lottery" or "state lottery" means the lottery or lotteries operated pursuant to this act.
- (g) "Major procurement" means any gaming product or service, including but not limited to facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies.
- (h) "Person" means any natural person, association, corporation or partnership.
- (i) "Prize" means any prize paid directly by the Kansas lottery pursuant to its rules and regulations.
- (j) "Share" means any intangible manifestation authorized by the Kansas lottery to prove participation in a lottery game.
- (k) "Ticket" means any tangible evidence issued by the Kansas lottery to prove participation in a lottery game.
- (l) "Vendor" means any person who has entered into a major procurement contract with the Kansas lottery.
- (m) "Returned ticket" means any ticket which was transferred to a lottery retailer, which was not sold by the lottery retailer and which was returned to the Kansas lottery for refund by issuance of a credit or otherwise.
- (n) "Video lottery machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game authorized by the commission, including but not limited to bingo, poker, black jack and keno, and which uses a video display and microprocessors and in which, by chance, the player may receive free games or credits that can be redeemed for cash.

History: L. 1987, ch. 292, § 2; L. 1988, ch. 314, § 1; L. 1989, ch. 244, § 1; L. 1992, ch. 299, § 2; July 1.

74-8704.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8704. Executive director, powers.

(a) The executive director shall have the power to:

- (1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.
- (2) Appoint, subject to the Kansas civil service act and within the limitations of appropriations therefor, all other employees of the Kansas lottery, which employees shall be in the classified service unless otherwise specifically provided by this act.
- (3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the Kansas lottery, including but not limited to

gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705 and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(5) Require lottery retailers to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of lottery tickets or shares.

(6) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder.

(7) Issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any lottery retailer, or to compel the appearance of any lottery retailer or employee of any lottery retailer, for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder. Subpoenas issued under the provisions of this subsection may be served upon natural persons and corporations in the manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(8) Administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition were in aid of a civil action in the district court.

(9) Require fingerprinting of employees and such other persons who work in sensitive areas within the lottery as deemed appropriate by the director. The director may submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such employees and persons and obtaining records of their criminal arrests and convictions.

(b) The Kansas lottery shall not engage in on-site display advertising or promotion of the lottery at any amateur athletic or sporting event including, but not limited to, amateur athletic sporting events at institutions under the jurisdiction and control of the state board of regents.

History: L. 1987, ch. 292, § 4; L. 1992, ch. 299, § 1; July 1.

74-8708.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8708. Lottery retailers.

(a) The executive director shall select as lottery retailers such persons as deemed best able to serve the public convenience and promote the sale of tickets or shares in accordance with marketing plans developed by the Kansas lottery. In the selection of lottery retailers, the executive director shall consider factors such as financial responsibility, security of the applicant's place of business or activity, accessibility of the applicant's place of business or activity, integrity, reputation, volume of expected sales and such other factors as the executive director may deem appropriate. The executive director may select the state fair board as a lottery retailer to sell lottery tickets or shares only on the state fairgrounds and only during the time of the annual state fair. Other persons lawfully engaged in nongovernmental business on state property may be selected as lottery retailers.

(b) The executive director may charge an application fee to persons applying to become lottery retailers.

(c) All lottery retailer contracts awarded by the Kansas lottery under this act shall be renewable annually after issuance unless sooner canceled or terminated.

(d) No lottery retailer contract awarded under this act shall be transferred or assignable.

(e) Each lottery retailer shall be issued a lottery retailer certificate which shall be conspicuously displayed at the place where the lottery retailer is authorized to sell lottery tickets or shares.

- (f) Lottery tickets or shares shall only be sold by the lottery retailer at the location stated on the lottery retailer certificate.
- (g) To be selected as a lottery retailer, a natural person acting as a sole proprietor must:
- (1) Be at least 18 years of age;
 - (2) have sufficient financial resources to support the activities required to sell lottery tickets or shares;
 - (3) be current in payment of all taxes, interest and penalties owed to any taxing subdivision where the lottery retailer will sell lottery tickets or shares;
 - (4) be current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and
 - (5) not be engaged exclusively in the sale of lottery tickets and shares.
- (h) No natural person shall be selected as a lottery retailer who:
- (1) Has been convicted of a felony in this or any other jurisdiction, unless at least 10 years have passed since satisfactory completion of the sentence or probation imposed by the court for each such felony;
 - (2) has been convicted of an illegal gambling activity in this or any other jurisdiction;
 - (3) has been found to have violated the provisions of this act or any rule and regulation adopted hereunder;
 - (4) is a vendor or an employee or agent of any vendor doing business with the Kansas lottery;
 - (5) resides in the same household of an employee of the Kansas lottery or of a member of the commission; or
 - (6) has made a statement of material fact to the Kansas lottery, knowing such statement to be false.
- (i) For a partnership to be selected as a lottery retailer, the partnership must meet the requirements of subsections (g)(2), (g)(3), (g)(4) and (g)(5) and each partner must meet the requirements of subsections (g)(1), (g)(3), (g)(4) and (h)(1) through (h)(6).
- (j) For a corporation to be selected as a lottery retailer, the corporation must meet the requirements of subsections (g)(2), (g)(3), (g)(4) and (g)(5) and each officer or director and each stockholder who owns 5% or more of the stock of such corporation must meet the requirements of subsections (g)(3), (g)(4) and (h)(1) through (h)(6).
- (k) For an unincorporated association to be selected as a lottery retailer, the association must meet the requirements of subsections (g)(2), (g)(3), (g)(4) and (g)(5) and each officer or director must meet the requirements of subsections (g)(1), (g)(3), (g)(4) and (h)(1) through (h)(6).
- (l) The executive director may terminate the certificate of any lottery retailer who fails to meet any of the applicable qualifying standards for selection as a retailer provided in this section or on the grounds for termination provided in the contract pursuant to rules and regulations adopted by the commission.
- (m) If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and such computation of retail sales is not explicitly defined to include sale of tickets or shares in a state-operated lottery, the compensation received by the lottery retailer from the lottery shall be considered the amount of the retail sale for purposes of computing the rental payment.
- History:** L. 1987, ch. 292, § 8; L. 1988, ch. 314, § 3; July 1.

74-8711.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8711. Lottery operating fund; deposits; authorized uses; transfers to state gaming revenues fund.

- (a) There is hereby established in the state treasury the lottery operating fund.
- (b) The executive director shall remit at least weekly to the state treasurer all moneys collected from the sale of lottery tickets and shares and any other moneys received by or on behalf of the Kansas lottery. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit it to the lottery operating fund. Moneys credited to the fund shall be expended or transferred only as provided by this act. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person designated by the executive director.
- (c) Moneys in the lottery operating fund shall be used for:

(1) The payment of expenses of the lottery, which shall include all costs incurred in the operation and administration of the Kansas lottery; all costs resulting from contracts entered into for the purchase or lease of goods and services needed for operation of the lottery, including but not limited to supplies, materials, tickets, independent studies and surveys, data transmission, advertising, printing, promotion, incentives, public relations, communications, and distribution of tickets and shares; and reimbursement of costs of facilities and services provided by other state agencies;

(2) the payment of compensation to lottery retailers;

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

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

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

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

(d) The director of accounts and reports shall transfer moneys in the lottery operating fund to the state gaming revenues fund created by K.S.A. 79-4801 and amendments thereto, on or before the 15th day of each month, for fiscal years commencing on or after July 1, 1988 in an amount certified monthly by the executive director and determined as follows, whichever is greater:

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

(2) an amount equal to not less than 30% of total monthly revenues from the sales of lottery tickets and shares less estimated returned tickets.

History: L. 1987, ch. 292, § 11; L. 1988, ch. 392, § 1; L. 1989, ch. 25, § 8; L. 1989, ch. 244, § 2; May 18.

74-8716.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8716. Conflicts of interests.

(a) It is unlawful for the executive director, a member of the commission or any employee of the Kansas lottery, or any person residing in the household thereof to:

(1) Have, either directly or indirectly, an interest in a business knowing that such business contracts with the Kansas lottery for a major procurement, whether such interest is as a natural person, partner, member of an association, stockholder or director or officer of a corporation; or

(2) accept or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor or service, or hospitality other than food and beverages, having an aggregate value of \$20 or more in any calendar year from a person knowing that such person (A) contracts or seeks to contract with the state to supply gaming equipment, materials, tickets or consulting services for use in the lottery or (B) is a lottery retailer or an applicant for lottery retailer.

(b) It is unlawful for a lottery retailer, an applicant for lottery retailer or a person who contracts or seeks to contract with the state to supply gaming equipment, materials, tickets or consulting services for use in the lottery to offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor or service, or hospitality other than food and beverages, having an aggregate value of \$20 or more in any calendar year to a person, knowing such person is the executive director, a member of the commission or an employee of the Kansas lottery, or a person residing in the household thereof.

(c) Violation of this section is a class A misdemeanor.

(d) If the executive director, a member of the commission or an employee of the Kansas lottery, or any person residing in the household thereof, is convicted of an act described by this section, such executive director, member or employee shall be removed from office or employment with the Kansas lottery.

(e) In addition to the provisions of this section, all other provisions of law relating to conflicts of interest of state employees shall apply to the members of the commission and employees of the Kansas lottery.

History: L. 1987, ch. 292, § 16; March 19.

74-8719.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8719. Unlawful purchase of lottery ticket; penalty.

(a) It is unlawful for any person to purchase a lottery ticket or share, or to share in the lottery winnings of a person, knowing that such person is:

- (1) The executive director, a member of the commission or an employee of the Kansas lottery;
- (2) an officer or employee of a vendor contracting with the Kansas lottery to supply gaming equipment or tickets to the Kansas lottery for use in the operation of any lottery conducted pursuant to this act;
- (3) a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or stepparent of a person described by subsection (a)(1) or (2); or
- (4) a person who resides in the same household as any person described by subsection (a)(1) or (2).

(b) (1) Violation of subsection (a) is a class A nonperson misdemeanor upon conviction for a first offense.

(2) Violation of subsection (a) is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

(c) Notwithstanding subsection (a), the executive director may authorize in writing any employee of the Kansas lottery and any employee of a lottery vendor to purchase a lottery ticket for the purposes of verifying the proper operation of the state lottery with respect to security, systems operation and lottery retailer contract compliance. Any prize awarded as a result of such ticket purchase shall become the property of the Kansas lottery and be added to the prize pools of subsequent lottery games.

(d) Certain classes of persons who, because of the unique nature of the supplies or services they provide for use directly in the operation of a lottery pursuant to this act, may be prohibited, in accordance with rules and regulations adopted by the commission, from participating in any lottery in which such supplies or services are used.

(e) Nothing in this section shall prohibit lottery retailers or their employees from purchasing lottery tickets and shares or from being paid a prize of a winning ticket or share.

(f) Each person who purchases a lottery ticket or share thereby agrees to be bound by rules and regulations adopted by the commission and by the provisions of this act.

History: L. 1987, ch. 292, § 19; L. 1988, ch. 314, § 6; L. 1993, ch. 291, § 244; L. 1994, ch. 291, § 81; July 1.

74-8731.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 87.--STATE LOTTERY

74-8731. Multistate lottery; agreement; enactment.

An interstate agreement creating a multistate lottery is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

INTERSTATE AGREEMENT CREATING A MULTISTATE LOTTERY

Party lotteries hereby agree to create a multistate lottery, hereinafter referred to as MUSL, an association of state lotteries and the District of Columbia, to operate a game, as follows:

1. That the party lotteries herein establish and create the multistate lottery board of directors, hereinafter referred to as board, on which each participating lottery shall be represented, to initiate, promulgate, administer and carry out a lottery game that will enhance each party lottery's revenue.

2. That a dual system of voting is established. One vote will be taken in which each party lottery has one vote. A second vote will be taken in which each party lottery has a number of votes equivalent to its proportionate percentage of the total population (as per the most recent U.S. census) of the states participating in MUSL multiplied by 100, except that the maximum vote a party lottery shall have under the second vote shall not exceed 1/3 of the total votes cast. Following the commencement of sales, each party lottery's second vote will have the number of votes equivalent to its proportionate percentage of total MUSL sales multiplied by 100, except that the maximum vote a party lottery shall have under the second vote shall not exceed 1/3 of the total votes cast. This percentage will be based upon each lottery's average monthly sales experience for the twelve or proportionate calendar months preceding the vote.

Unless a different percentage is provided in this agreement, the percentage of votes necessary to allow action by the MUSL is 51% of the votes cast pursuant to both methods of voting.

The terms of this agreement cannot be changed without a 2/3 vote of all party lotteries cast pursuant to both methods of voting.

3. That the quorum necessary to hold an official meeting of the MUSL board shall be representation in person or by proxy from at least 51% of all party lotteries. However, unless a majority of the proportionate population votes, as defined in paragraph 2 of this agreement are also represented, any decisions adopted at any MUSL board meeting must subsequently be ratified within 14 days by a majority vote utilizing the proportionate percentage share allocation of votes.

4. That the director or designee, of each party lottery shall represent it on the board and may cast the votes allocated to it either in person or proxy.

5. That the board shall elect for a term as prescribed in its bylaws, a president, vice-president, secretary and two coordinators from its membership hereinafter to be called the executive committee.

6. That a percent of the gross sales as determined by the MUSL board and stipulated in MUSL rules from the MUSL game sales of each party lottery will be aggregated in a common prize pool.

7. That operating costs of the MUSL shall be paid by each party lottery proportionate to its percentage of MUSL game sales as compared with total MUSL game sales. The executive committee will advise the board of the budget and estimated expenditures of MUSL for each fiscal year. The budget proposal will specifically estimate the portion of the total budget to be paid to MUSL by each of the member lotteries based upon the percentage described.

8. That the revenues not allocated to prizes or operating cost as outlined above and generated within each party lottery shall remain in that lottery.

9. That the board's functions shall be performed and carried out by such advisory committees or panels, or both as the board may establish and by such officers and independent contractors as may be appointed by the board. All such officers, independent contractors, agents, consultants and employees shall serve at the pleasure of the board and the board shall prescribe their powers, duties and qualifications and fix their compensation and other terms of their service.

10. That each party lottery shall be responsible for travel and per diem expenses incurred by its board members unless otherwise approved by the board.

11. That the party lotteries shall operate and administer a game in accordance with rules governing the establishment and operation thereof, as promulgated by the board. Notwithstanding the above, the game rules shall be adopted by the party lotteries or similar rules and regulations will be adopted by each lottery which are approved by the MUSL board.

The rules may be changed or modified by the MUSL only after the MUSL has given each member two weeks notice that a rule change or modification will be voted upon at a MUSL meeting. A rule can be changed or modified by the MUSL by an affirmative vote of 2/3 of the MUSL members cast pursuant to both methods of voting. Following receipt of notice that an amendment or modification has been adopted the party lotteries shall adopt the amendment or modification or a similar amendment or modification which is approved by the MUSL board.

12. That the executive committee shall make annual reports to the party states, which shall include a full and complete statement of MUSL revenues, prize disbursements and other expenses and any other information the party lotteries may require. These reports shall be the basis to determine each party lottery's share of expenses as prescribed in the bylaws, this agreement and the rules.

13. That each party lottery shall provide all necessary operational reports and other data required by MUSL.

14. That all MUSL accounts and transactions shall be subject to annual post audits conducted by independent auditors retained by the board for this purpose and each of the party lotteries shall receive a certified copy of the same. All such records and transactions shall be available to all party lotteries for copying, inspection and auditing purposes as may be required under the laws of their state.

15. That the fiscal year of the MUSL shall be from July 1 of one calendar year to June 30th of the succeeding calendar year.

16. That prizes received pursuant to this agreement shall be subject to the statutory authority and rules and regulations of the party lotteries wherein the ticket was purchased. Any litigation relating to tickets and prizes shall be resolved according to the laws of the state where the ticket was purchased.

17. That MUSL shall continue in existence until this agreement is revoked by all of the party lotteries. The withdrawal of one or more party lotteries shall not terminate this agreement among the remaining lotteries. Upon termination of MUSL, any assets acquired by MUSL with the exception of the prize reserve fund, will be liquidated in a manner determined by the board. The proceeds from the liquidation will be divided among all of the lotteries which were members of MUSL in good standing at any time during the 12 months preceding termination. The amount of the proceeds received by each lottery will be calculated by use of the following formula:

$$\frac{\text{individual lottery MUSL sales during the twelve month period}}{\text{total MUSL sales during the 12-month period}} \times \text{proceeds available for distribution}$$

A party lottery wishing to withdraw from this agreement shall give the board a six months notice of its intention to withdraw. However, a lottery may terminate such agreement at any time without prior notice if authority to participate is withdrawn by executive or legislative action or if participation in the MUSL is in conflict with the constitution or statutes of any state. In addition, the MUSL can vote out a party lottery for cause with the consent of 2/3 of the party lotteries voting by both methods of voting as outlined in paragraph 2, except the party lottery being voted upon shall be excluded from the vote in that proceeding and in the calculations as outlined in paragraph 2. A lottery which withdraws or is voted out by MUSL more than 12 months prior to termination of MUSL will not be entitled to a share of the property or assets of MUSL, except for such lottery's proportionate share of the prize reserve fund.

In the event that a party lottery terminates, voluntarily or involuntarily, or MUSL is terminated by agreement of the parties, the prize reserve fund share of the party lottery or lotteries shall not be returned to the party lottery or lotteries until the later of one year from and after the date of termination or final resolution of any pending unresolved liabilities arising from transactions processed during the tenure of the departing lottery or lotteries. The voluntary or involuntary termination of a party lottery or lotteries does not cancel any obligation to MUSL which the party lottery or lotteries incurred before the withdrawal date.

18. That all intellectual property rights developed and approved by MUSL with respect to the game including, but not limited to, trade marks, trade names, logos, copyrights, slogans and devices shall be acquired and held by a party lottery designated by MUSL for the use and benefit of MUSL. The use thereof shall be limited to party lotteries participating in this game.

19. That each party lottery agrees that upon termination from MUSL that it will not use any of the intellectual property identified with the game.

20. That the board shall not pledge the credit of the party lotteries, directly or indirectly, except that each party lottery shall be liable for its proportionate shares of prize moneys and operational costs as specified in paragraphs 6 and 7 of this agreement.

21. Compliance with MUSL standards is a prerequisite for MUSL membership. The board shall review the internal control procedures submitted by each lottery and vote upon whether or not each lottery's internal controls comply with MUSL standards as set forth in MUSL rules and regulations. If MUSL incurs a prize liability under this provision due to the error of a lottery whose internal control procedures have been approved and the error was not due to a contractor's actions or omission, the party lottery will pay to the prize winner the disputed prize or \$1,000,000 whichever is less at the direction of the board. Upon the payment herein before outlined, MUSL will indemnify and hold harmless each member lottery for any additional liabilities relating to the MUSL prize payments. In addition, it is recognized that \$1,000,000 may not be enough to cover the value of the prize liability incurred, and a prize reserve fund will be established to enable MUSL to fund the difference between this amount and the actual prize liability. In addition, the companies which operate online gaming systems on behalf of the party lotteries will be required to have some level of insurance to cover such liabilities in the event one of them makes a mistake.

If MUSL incurs any liability as the result of the acts of a party contractually obligated to the member lottery, that lottery shall pursue all contractual and legal remedies available to it under the contract. Any money recovered by the lottery will be turned over to MUSL up to the amount expended by MUSL as a result of the error. A lottery's pursuit

of its contractual and legal remedies against the party at fault is that lottery's only obligation to MUSL in the event of a MUSL loss.

The MUSL shall establish and then maintain a prize reserve fund solely for the purpose of indemnifying the member lotteries. The board will determine the manner in which the prize reserve fund is to be invested and interest earned on the fund will become part of the fund if the fund balance is below the ceiling amount designated by the board. Interest earned on the fund when the fund balance is not below the ceiling amount will be treated as prize money.

22. That no lottery shall be allowed to join the MUSL without the consent of 2/3 of the party lotteries voting pursuant to both methods of voting. The board will designate the terms which must be met by a lottery seeking admission, including but not limited to, setting the amount which the lottery must contribute to the MUSL prize reserve fund. This paragraph is not applicable to the lotteries listed in this first paragraph of this agreement provided that they sign this agreement by October 1, 1987.

23. That this agreement may be executed in as many counterparts, as there are party lotteries. When so executed each shall be deemed to be an original and such counterparts together shall constitute one and the same agreement.

24. That all notices required to be sent to a party lottery pursuant to this agreement shall be in writing and sent by certified mail, return receipt requested at the addresses appearing hereunder or any other address which may be given from time to time to the board.

History: L. 1988, ch. 288, § 1; Jan. 28.

74-8802a.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8802a.

History: L. 1987, ch. 112, § 2; L. 1989, ch. 246, § 1; L. 1992, ch. 27, § 1; L. 1992, ch. 286, § 1; L. 1994, ch. 228, § 1; L. 1994, ch. 332, § 1; L. 1996, ch. 256, § 19; Repealed, L. 1998, ch. 152, § 2; Repealed, L. 1998, ch. 178, § 10; May 21.

74-8803.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8803. Kansas racing and gaming commission.

(a) There is hereby created the Kansas racing and gaming commission, consisting of five members who shall be appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 1998 Supp. 46-2601 and amendments thereto, no person appointed to the commission shall exercise any power, duty or function as a member of the commission until confirmed by the senate.

(b) Before appointing any person as a member of the commission, the governor shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(c) The members of the commission shall meet the following qualifications:

(1) Each member shall be a citizen of the United States and an actual resident of Kansas at the time of appointment and during such member's term of office with the commission;

(2) each member shall have been a resident of Kansas for a continuous period of not less than five years immediately preceding appointment to the commission; and

(3) no member shall have been convicted of a felony under the laws of any state or of the United States at any time prior to appointment or during such member's term of office with the commission.

(d) The governor shall make appointments to the commission in such a manner that:

(1) Not more than three members belong to the same political party at the time of appointment and during their terms of office with the commission; and

(2) subject to the provisions of K.S.A. 75-4315c and amendments thereto each congressional district has at least one member residing in such district at the time of appointment.

(e) Except as provided by subsection (f), each member appointed before July 1, 1995, shall be appointed for a term of three years and until a successor is appointed and confirmed. Each member appointed on or after July 1, 1995, shall be appointed for a term of four years and until a successor is appointed and confirmed.

(f) The terms of members who are serving on the commission on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(g) A vacancy on the commission shall be filled for the unexpired term by appointment by the governor.

(h) The commission shall meet at such times and places within this state as the chairperson or a majority of the commission members determines. A majority of the members shall constitute a quorum for the conduct of commission business.

(i) The governor shall designate a member of the commission as chairperson of the commission, to serve in that capacity at the pleasure of the governor. The members of the commission annually shall elect a vice-chairperson and secretary from the membership of the commission.

(j) Members of the commission shall receive such compensation as determined by the governor, subject to the limitations of appropriations therefor, and, when attending meetings of the commission, or a subcommittee meeting thereof approved by the commission, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

History: L. 1987, ch. 112, § 3; L. 1992, ch. 262, § 14; L. 1995, ch. 241, § 19; L. 1995, ch. 255, § 7; L. 1996, ch. 256, § 20; July 1.

74-8803a.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8803a. Same; renamed.

(a) On the effective date of this act the Kansas racing commission shall be and is hereby officially designated as the Kansas racing and gaming commission.

(b) On and after the effective date of this act, whenever the Kansas racing commission, or words of like effect, is referred to or designated by a statute, contract or other document, created before the effective date of this act, such reference or designation shall mean and apply to the Kansas racing and gaming commission.

(c) Nothing in this act shall be construed as abolishing or reestablishing the Kansas racing commission.

History: L. 1996, ch. 256, § 18; July 1.

74-8804.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8804. Powers and duties of commission.

(a) During race meetings, the commission and its designated employees may observe and inspect all racetrack facilities operated by licensees and all racetracks simulcasting races to racetrack facilities in Kansas, including but not limited to all machines, equipment and facilities used for parimutuel wagering.

(b) Commission members and hearing officers designated by the commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was in aid of a civil action in the district court.

(c) The commission may examine, or cause to be examined by any agent or representative designated by the commission, any books, papers, records or memoranda of any licensee, or of any racetrack or business involved in simulcasting races to racetrack facilities in Kansas, for the purpose of ascertaining compliance with any provision of this act or any rule and regulation adopted hereunder.

(d) The commission may issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any licensee or officer, member, employee or agent of any licensee, or to compel the appearance of any licensee or officer, member, employee or agent of any licensee, or of any racetrack or business involved in simulcasting races to racetrack facilities in this state, for the purpose of ascertaining compliance with any of the provisions of this act or any rule and regulation adopted hereunder. Subpoenas issued pursuant to this subsection may be served upon individuals and corporations in the same manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the commission or an agent or representative designated by the commission. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(e) The commission shall allocate equitably race meeting dates, racing days and hours to all organization licensees and assign such dates and hours so as to minimize conflicting dates and hours within the same geographic market area.

(f) The commission shall have the authority, after notice and an opportunity for hearing in accordance with rules and regulations adopted by the commission, to exclude, or cause to be expelled, from any race meeting or racetrack facility, or to prohibit a licensee from conducting business with any person:

(1) Who has violated the provisions of this act or any rule and regulation or order of the commission;

(2) who has been convicted of a violation of the racing or gambling laws of this or any other state or of the United States or has been adjudicated of committing as a juvenile an act which, if committed by an adult, would constitute such a violation; or

(3) whose presence, in the opinion of the commission, reflects adversely on the honesty and integrity of horse or greyhound racing or interferes with the orderly conduct of a race meeting.

(g) The commission shall review and approve all proposed construction and major renovations to racetrack facilities owned or leased by licensees.

(h) The commission shall review and approve all proposed contracts with racetracks or businesses involved in simulcasting races to racetrack facilities in Kansas.

(i) The commission may suspend a horse or greyhound from participation in races if such horse or greyhound has been involved in any violation of the provisions of this act or any rule and regulation or order of the commission.

(j) The commission, within 72 hours after any action taken by a steward or racing judge and upon appeal by any interested party or upon its own initiative, may overrule any decision of a steward or racing judge, other than a decision regarding disqualifications for interference during the running of a race, if the preponderance of evidence indicates that:

(1) The steward or racing judge mistakenly interpreted the law;

(2) new evidence of a convincing nature is produced; or

(3) the best interests of racing and the state may be better served.

A decision of the commission to overrule any decision of a steward or racing judge shall not change the distribution of parimutuel pools to the holders of winning tickets. A decision of the commission which would affect the

distribution of purses in any race shall not result in a change in that distribution unless a written claim is submitted to the commission within 48 hours after completion of the contested race by one of the owners or trainers of a horse or greyhound which participated in such race and a preponderance of evidence clearly indicates to the commission that one or more of the grounds for protest, as provided for in rules and regulations of the commission, has been substantiated.

(k) The commission, after notice and a hearing in accordance with rules and regulations adopted by the commission, may impose a civil fine not exceeding \$5,000 for each violation of any provision of this act, or any rule and regulation of the commission, for which no other penalty is provided.

(l) The commission shall adopt rules and regulations specifying and regulating:

(1) Those drugs and medications which may be administered, and possessed for administration, to a horse or greyhound within the confines of a racetrack facility; and

(2) that equipment for administering drugs or medications to horses or greyhounds which may be possessed within the confines of a racetrack facility.

(m) The commission may adopt rules and regulations providing for the testing of any licensees of the commission, and any officers, directors and employees thereof, to determine whether they are users of any controlled substances.

(n) The commission shall require fingerprinting of all persons necessary to verify qualification for employment by the commission or to verify qualification for any license, including a simulcasting license, issued pursuant to this act. The commission shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.

(o) The commission may receive from commission security personnel, the Kansas bureau of investigation or other criminal justice agencies, including but not limited to the federal bureau of investigation and the federal internal revenue service, such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of licensees of the commission, employees of the commission, applicants for employment by the commission, and applicants for licensure by the commission, including applicants for simulcasting licenses. Upon the written request of the chairperson of the commission, the commission may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of employees of and applicants for employment by the commission and determining qualifications of licensees of and applicants for licensure by the commission. Such information, other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the commission as necessary to determine qualifications of such licensees, employees and applicants. Any other disclosure of such confidential information is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act.

(p) The commission, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to receive and discuss information received by the commission pursuant to subsection (o) and to negotiate with licensees of or applicants for licensure by the commission regarding any such information.

(q) The commission may enter into agreements with the federal bureau of investigation, the federal internal revenue service, the Kansas attorney general or any state, federal or local agency as necessary to carry out the duties of the commission under this act.

(r) The commission shall adopt such rules and regulations as necessary to implement and enforce the provisions of this act.

History: L. 1987, ch. 112, § 4; L. 1988, ch. 315, § 3; L. 1992, ch. 27, § 3; L. 1992, ch. 286, § 2; L. 1993, ch. 76, § 1; L. 1994, ch. 146, § 3; L. 1995, ch. 255, § 8; L. 1996, ch. 262, § 2; May 30.

74-8813.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8813. Organization licenses to conduct races.

(a) A nonprofit organization may apply to the commission for an organization license to conduct horse races or an organization license to conduct greyhound races, or both such licenses. In addition, an organization license may authorize the licensee to construct or own a racetrack facility if so provided by the commission. The application for an organization license shall be filed with the commission at a time and place prescribed by rules and regulations of the commission. The application shall specify the days when and the exact location where it proposes to conduct such races and shall be in a form and include such information as the commission prescribes. A nonrefundable application fee in the form of a certified check or bank draft shall accompany the application. Except as provided pursuant to K.S.A. 74-8814 and amendments thereto, such fee shall be \$5,000 for each application. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(b) If an applicant for an organization license is proposing to construct a racetrack facility, such applicant, at the time of submitting the application, shall deposit with the commission, in such form as prescribed by rules and regulations of the commission, the sum of: (1) \$500,000, if the number of racing days applied for in a racing season is 150 days or more; (2) \$250,000, if the number of racing days applied for is less than 150 days; or (3) a lesser sum established by the commission, if the applicant meets the qualifications set forth in subsection (a)(1) or (a)(2) of K.S.A. 74-8814 and amendments thereto or if the applicant will be conducting races only on the state fairgrounds. Only one such deposit shall be required for a dual racetrack facility. The executive director shall promptly remit any deposit received pursuant to this subsection to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the racing applicant deposit fund created by K.S.A. 74-8828 and amendments thereto. If the application is denied by the commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the license is granted by the commission in accordance with the terms of the application or other terms satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the licensee upon completion of the racetrack facility in accordance with the terms of the license. If the licensee fails to complete the racetrack facility in accordance with the terms of the license, the deposit, and any interest accrued thereon, shall be forfeited by the applicant.

(c) To qualify for an organization license to conduct horse or greyhound races:

(1) The applicant shall be a bona fide, nonprofit organization which, if applicable, meets the requirements of subsection (d);

(2) the applicant shall have, either by itself or through contractual relationships with other persons or businesses approved by the commission, the financial capability, manpower and technical expertise, as determined by the commission, to properly conduct horse races or greyhound races, or both, and, if applicable, to operate a parimutuel wagering system;

(3) if the applicant is proposing to construct a racetrack facility, the applicant shall submit detailed plans for the construction of such facility, including the means and source of financing such construction and operation, sufficient to convince the commission that such plans are feasible;

(4) submit for commission approval a written copy of each contract and agreement which the applicant proposes to enter into, including all those listed in subsection (n), which contracts and agreements shall conform to the restrictions placed thereon by subsections (n), (o) and (p);

(5) the applicant shall propose to conduct races within only one county, and in such county the majority of the qualified electors have approved either: (A) The constitutional amendment permitting the conduct of horse and dog races and parimutuel wagering thereon; or (B) a proposition permitting horse and dog races and parimutuel wagering thereon within the boundaries of such county;

(6) no director, officer, employee or agent of the applicant shall have been convicted of any of the following in any court of any state or of the United States or shall have been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute any of the following: (A) Fixing of horse or greyhound races; (B) illegal gambling activity; (C) illegal sale or possession of any controlled substance; (D) operation of any illegal business; (E) repeated acts of violence; or (F) any felony;

(7) no director or officer of the applicant shall be addicted to, and a user of, alcohol or a controlled substance; and

(8) no director or officer of the applicant shall have failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

(d) To qualify for an organization license to conduct horse or greyhound races, a nonprofit organization, other than a fair association, a horsemen's nonprofit organization or a nonprofit organization conducting races only on the state fair grounds, shall:

(1) Distribute all of its net earnings from the conduct of horse and greyhound races, other than that portion of the net earnings which is necessary to satisfy the debt service obligations, not otherwise deducted from net earnings, of an organization licensee owning the racetrack facility or that portion of the net earnings which is set aside as reasonable reserves for future improvement, maintenance and repair of the racetrack facility owned by the organization licensee, only to organizations, other than itself, which: (A) Have been exempted from the payment of federal income taxes pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as in effect July 1, 1987, (B) are domiciled in this state and (C) expend the moneys so distributed only within this state;

(2) distribute not more than 25% of such net earnings to any one such organization in any calendar year;

(3) not engage in, and have no officer, director or member who engages in, any prohibited transaction, as defined by section 503(b) of the federal internal revenue code of 1986, as in effect July 1, 1987; and

(4) have no officer, director or member who is not a bona fide resident of this state.

(e) Within 30 days after the date specified for filing, the commission shall examine each application for an organization license for compliance with the provisions of this act and rules and regulations of the commission. If any application does not comply with the provisions of this act or rules and regulations of the commission, the application may be rejected or the commission may direct the applicant to comply with the provisions of this act or rules and regulations of the commission within a reasonable time, as determined by the commission. Upon proof by the applicant of compliance, the commission may reconsider the application. If an application is found to be in compliance and the commission finds that the issuance of the license would be within the best interests of horse and greyhound racing within this state from the standpoint of both the public interest and the horse or greyhound industry, as determined solely within the discretion of the commission, the commission may issue an organization license to the applicant. The commission shall approve the issuance of organization licenses for a period established by the commission but not to exceed 25 years. Such license may provide that during its term it constitutes an exclusive license within a radius of the location specified in the license, as determined by the commission. No racing of any kind regulated by this act shall be conducted by any other person within the territory covered by such exclusive license without the written consent of the licensee. For each license issued, the commission shall specify the location, type, time and date of all races and race meetings which the commission has approved for the licensee to conduct. The license shall be issued upon receipt of the license fee and the furnishing of a surety bond or other financial security approved by the commission, conditioned on, and in an amount determined by the commission as sufficient to pay, the licensee's potential financial liability for unpaid taxes, purses and distribution of parimutuel winnings and breakage. No organization license shall be transferred to any other organization or entity.

(f) When considering the granting of organization licenses or racing days between two or more competing applicants, the commission shall give consideration to the following factors:

(1) The character, reputation, experience and financial stability of those persons within the applicant organizations who will be supervising the conduct of the races and parimutuel wagering for the organization;

(2) the quality of the racing facilities and adjoining accommodations;

(3) the amount of revenue that can reasonably be expected to be generated from state and local taxes, the economic impact for the respective horse or greyhound breeding industries in Kansas and the indirect economic benefit to the surrounding area, in the determination of which economic benefit the commission shall solicit written recommendations from all interested parties in the surrounding area;

(4) the location of the race meetings in relation to the principal centers of population and the effect of such centers on the ability of the organizations to sustain a financially sound racing operation; and

(5) testimony from interested parties at public hearings to be conducted in the geographic areas where the applicants would be conducting their race meetings.

(g) Except as otherwise provided pursuant to K.S.A. 74-8814 and amendments thereto, each organization licensee shall pay a license fee in the amount of \$200 for each day of racing approved by the commission. Such fees shall be paid at such times and by such means as prescribed by rules and regulations of the commission. The commission may authorize the state treasurer to refund from the state racing fund a fee paid for any racing day which was canceled with advance notice to and with the approval of the commission.

(h) Organization licensees may apply to the commission for changes in approved race meetings or dates or for additional race meetings or dates as needed throughout the terms of their licenses. Application shall be made upon forms furnished by the commission and shall contain or be accompanied by such information as the commission prescribes. Upon approval by the commission, the organization licensee shall pay an additional license fee for any race days in excess of the number originally approved and included in the calculation of the initial license fee.

(i) All organization licenses shall be reviewed annually by the commission to determine if the licensee is complying with the provisions of this act and rules and regulations of the commission and following such proposed plans and operating procedures as were approved by the commission. The commission may review an organization license more often than annually upon its own initiative or upon the request of any interested party. The commission shall require each organization licensee, other than a fair association, or horsemen's nonprofit organization, to file annually with the commission a certified financial audit of the licensee by an independent certified public accountant, which audit shall be open to inspection by the public, and may require an organization licensee to provide any other information necessary for the commission to conduct the annual or periodic review.

(j) Subject to the provisions of subsection (k), the commission, in accordance with the Kansas administrative procedure act, may suspend or revoke an organization license or may impose a civil fine not exceeding \$5,000, or may both suspend such license and impose such fine, for each of the following violations by a licensee:

(1) One or more violations, or a pattern of repeated violations, of the provisions of this act or rules and regulations of the commission;

(2) failure to follow one or more provisions of the licensee's plans for the financing, construction or operation of a racetrack facility as submitted to and approved by the commission;

(3) failure to maintain compliance with the requirements of subsection (c) or (d), if applicable, for the initial issuance of an organization license;

(4) failure to properly maintain or to make available to the commission such financial and other records sufficient to permit the commission to verify the licensee's nonprofit status and compliance with the provisions of this act or rules and regulations of the commission;

(5) providing to the commission any information material to the issuance, maintenance or renewal of the licensee's license knowing such information to be false or misleading;

(6) failure to meet the licensee's financial obligations incurred in connection with the conduct of a race meeting; or

(7) a violation of K.S.A. 74-8833 and amendments thereto or any rules and regulations adopted pursuant to that section.

(k) Prior to suspension or revocation of a license pursuant to subsection (j), the commission shall give written notice of the reason therefor in detail to the organization licensee and to all facility owner and facility manager licensees with whom the organization licensee is doing business. Upon receipt of such notice by all of such licensees, the organization licensee shall have 30 days in which to cure the alleged violation, if it can be cured. If the commission finds that the violation has not been cured upon expiration of the 30 days, or upon a later deadline granted by the commission, or if the commission finds that the alleged violation is of such a nature that it cannot be cured, the commission shall proceed to suspend or revoke the license pursuant to subsection (j). Nothing in this subsection shall be construed to preclude the commission from imposing a fine pursuant to subsection (j) even if the violation is cured within 30 days or such other period as provided by the commission.

(l) Prior to the expiration of an organization license, the organization may apply to the commission for renewal of such license. The renewal application shall be in a form and include such information as the commission prescribes. The commission shall grant such renewal if the organization meets all of the qualifications required for an initial license. The commission may charge a fee for the processing of the renewal application not to exceed the application fee authorized for an initial license.

(m) Once an organization license has been issued, no person thereafter and during the term of such license shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership or become a director or officer of such organization licensee without first having obtained the written approval of the commission.

(n) An organization licensee shall submit to the commission for approval a copy of each contract and agreement which the organization licensee proposes to enter into and any proposed modification of any such contract or agreement, including but not limited to those involving:

(1) Any person to be employed by the organization licensee;

(2) any person supplying goods and services to the organization licensee, including management, consulting or other professional services;

(3) any lease of facilities, including real estate or equipment or other personal property; or

(4) the operation of any concession within or adjacent to the racetrack facility.

The commission shall reject any such contract or agreement which violates any provision of this act or rules and regulations of the commission, which provides for payment of money or other valuable consideration which is clearly in excess of the fair market value of the goods, services or facilities being purchased or leased or which, in the case of a contract or agreement with a facility owner licensee or a facility manager licensee, would not protect the organization licensee from incurring losses due to contractual liability.

(o) Organization licensees shall not by lease, contract, agreement, understanding or arrangement of any kind grant, assign or turn over to any person the parimutuel system of wagering described in K.S.A. 74-8819 and amendments thereto or the operation and conduct of any horse or greyhound race to which such wagering applies, but this subsection shall not prohibit the organization licensee from contracting with and compensating others for providing services in connection with the financing, acquisition, construction, equipping, maintenance and management of the racetrack facility; the hiring and training of personnel; the promotion of the facility; operation and conduct of a simulcast race displayed by a simulcasting licensee; parimutuel wagering at racetrack facilities; and parimutuel wagering at off-track wagering and intertrack wagering facilities in other jurisdictions to which live races conducted by the organization licensee are simulcast.

(p) An organization licensee shall not in any manner permit a person other than such licensee to have a share, percentage or proportion of money received from parimutuel wagering at the racetrack facility except as specifically set forth in this act, except that:

(1) A facility owner licensee may receive gross percentage rental fees under a lease if all terms of the lease are disclosed to the commission and such lease is approved by the commission;

(2) a person who has contracted with an organization licensee to provide one or more of the services permitted by subsection (o) may receive compensation in the form of a percentage of the money received from parimutuel wagering if such contract is approved by the commission and such person is licensed as a facility manager; and

(3) a person who has contracted with a simulcasting licensee to allow such licensee to display a simulcast race conducted by such person may receive compensation in the form of a percentage of or a fee deducted from the money received by the licensee from parimutuel wagers placed on such race if such contract is filed with the commission.

(q) Directors or officers of an organization licensee are not liable in a civil action for damages arising from their acts or omissions when acting as individual directors or officers, or as a board as a whole, of a nonprofit organization conducting races pursuant to this act, unless such conduct constitutes willful or wanton misconduct or intentionally tortious conduct, but only to the extent the directors and officers are not required to be insured by law or are not otherwise insured against such acts or omissions. Nothing in this section shall be construed to affect the liability of an organization licensee for damages in a civil action caused by the negligent or wrongful acts or omissions of its directors or officers, and a director's or officer's negligence or wrongful act or omission, while acting as a director or officer, shall be imputed to the organization licensee for the purpose of apportioning liability for damages to a third party pursuant to K.S.A. 60-258a and amendments thereto.

(r) If an applicant for an organization license proposes to construct a racetrack facility and the commission determines that such license should be issued to the applicant, the commission shall issue to the applicant an organization license conditioned on the submission by the licensee to the commission, within a period of time prescribed by the commission, of a commitment for financing the construction of the racetrack facility by a financial institution or other source, subject to approval by the commission. If such commitment is not submitted within the period of time originally prescribed by the commission or such additional time as authorized by the commission, the license shall expire at the end of such period.

(s) If an organization licensee's license authorizes the construction of a dual racetrack facility, such license shall be conditioned on the completion of such facility within a time specified by the commission. If, within the time specified by the commission, the licensee has not constructed a dual racetrack facility in accordance with the plans submitted to the commission pursuant to subsection (c)(3), the commission, in accordance with the Kansas administrative procedure act, shall:

(1) Impose upon the licensee a civil fine equal to 5% of the total parimutuel pools for all races held at the licensee's facility on and after the date that racing with parimutuel wagering is first conducted at such facility and until the date that construction of the dual racetrack facility is completed and horse racing has begun; and

(2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the failure to complete the facility.

(t) Any license granted an organization licensee to conduct races at a dual racetrack facility shall be conditioned on the organization licensee's conducting live horse races on not less than 20% of the annual racing days granted the licensee by the commission. If an organization licensee fails to comply with such condition, the commission may revoke the organization licensee's license unless the licensee demonstrates reasonable justification for the failure.

(u) The refusal to renew an organization license shall be in accordance with the Kansas administrative procedure act and shall be subject to review under the act for judicial review and civil enforcement of agency actions.

(v) The grant or denial of an original organization license shall not be subject to the Kansas administrative procedure act. Such grant or denial shall be a matter to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one of two or more competing applicants without the necessity of a

hearing on the denial of a license to each other competing applicant. Any action for judicial review of such decision shall be by appeal to the supreme court in accordance with the act for judicial review and civil enforcement of agency actions, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for the organization license shall be parties to such appeal. Any such appeal shall have priority over other cases except those having statutory priority.

(w) The commission may adopt rules and regulations regulating crossover employment between organization licensees and facility manager licensees and facility owner licensees.

History: L. 1987, ch. 112, § 13; L. 1988, ch. 316, § 2; L. 1988, ch. 317, § 1; L. 1988, ch. 318 § 1; L. 1988, ch. 319 § 1; L. 1992, ch. 27, § 5; L. 1992, ch. 286, § 5; L. 1994, ch. 146, § 5; L. 1996, ch. 262, § 4; May 30.

74-8813a.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8813a.

History: L. 1987, ch. 112, § 13; L. 1988, ch. 316, § 2; L. 1988, ch. 317, § 1; L. 1988, ch. 318 § 1; L. 1988, ch. 319 § 1; L. 1992, ch. 27, § 5; L. 1992, ch. 286, § 5; L. 1994, ch. 146, § 5; L. 1996, ch. 145, § 3; Repealed, L. 1998, ch. 152, § 2; Repealed, L. 1998, ch. 178, § 10; May 21.

74-8815.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8815. Facility owner license and facility manager license.

(a) Any person, partnership, corporation or association, or the state of Kansas or any political subdivision thereof, may apply to the commission for a facility owner license to construct or own, or both, a racetrack facility which includes a racetrack and other areas designed for horse racing or greyhound racing, or both.

(b) Any person, partnership, corporation or association may apply to the commission for a facility manager license to manage a racetrack facility.

(c) A facility owner license or a facility manager license shall be issued for a period established by the commission but not to exceed 25 years. The application for a facility owner license shall be accompanied by a nonrefundable fee of \$5,000. An application for a facility manager license shall be accompanied by a nonrefundable fee of \$5,000. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(d) If an applicant for a facility owner license is proposing to construct a racetrack facility, such applicant, at the time of submitting the application, shall deposit with the commission, in such form as prescribed by rules and regulations of the commission, the sum of (1) \$500,000, if the number of racing days applied for by organization licensee applicants proposing to race at the facility is 150 days or more in a racing season; (2) \$250,000, if such number of racing days applied for is less than 150 days; or (3) a lesser sum established by the commission, if the

applicant is the state or a political subdivision of the state. Only one such deposit shall be required for a dual racetrack facility. The executive director shall promptly remit any deposit received pursuant to this subsection to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the racing applicant deposit fund created by K.S.A. 74-8828 and amendments thereto. If the application is denied by the commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the license is granted by the commission in accordance with the terms of the application or other terms satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the licensee upon completion of the racetrack facility in accordance with the terms of the license. If the licensee fails to complete the racetrack facility in accordance with the terms of the license, the deposit, and any interest accrued thereon, shall be forfeited by the applicant.

(e) A facility owner license shall be granted only to an applicant that already owns an existing racetrack facility or has submitted with its application detailed plans for the construction of such facility, including the means and source of financing such construction and operation sufficient to convince the commission that such plans are feasible. A facility manager license shall be granted only to an applicant that has a facility management contract with an organization licensed pursuant to K.S.A. 74-8813 and amendments thereto.

(f) An applicant for a facility owner license or facility manager license, or both, shall not be granted a license if there is substantial evidence that the applicant for the license, or any officer or director, stockholder, member or owner of or other person having a financial interest in the applicant:

(1) Has been suspended or ordered to cease operation of a parimutuel racing facility in another jurisdiction by the appropriate authorities in that jurisdiction, has been ordered to cease association or affiliation with such a racing facility or has been banned from such a racing facility;

(2) has been convicted by a court of any state or of the United States of any criminal act involving fixing or manipulation of parimutuel races, violation of any law involving gambling or controlled substances or drug violations involving horses or greyhounds, or has been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute such a criminal act, or if any employee or agent assisting the applicant in activities relating to ownership or management of a racetrack facility or to the conduct of races has been so convicted or adjudicated;

(3) has been convicted by a court of any state or of the United States of any felony involving dishonesty, fraud, theft, counterfeiting, alcohol violations or embezzlement, or has been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute such a felony, or if any employee or agent assisting the applicant in activities relating to ownership or management of a racetrack facility or to the conduct of races has been so convicted or adjudicated;

(4) has not demonstrated financial responsibility sufficient to meet the obligations being undertaken pursuant to its contract with the organization licensee;

(5) is not in fact the person or entity authorized to or engaged in the licensed activity;

(6) is or becomes subject to a contract or option to purchase under which 10% or more of the ownership or other financial interest or membership interest are subject to purchase or transfer, unless the contract or option has been disclosed to the commission and the commission has approved the sale or transfer during the license period;

(7) has made a statement of a material fact in the application or otherwise in response to official inquiry by the commission knowing such statement to be false; or

(8) has failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

(g) No person or entity shall be qualified to hold a facility manager license if such person or entity, or any director, officer, employee or agent thereof, is addicted to, and a user of, alcohol or a controlled substance.

(h) All facility owner licenses and facility manager licenses shall be reviewed annually by the commission to determine if the licensee is complying with the provisions of this act and rules and regulations of the commission and following such proposed plans and operating procedures as were approved by the commission. The commission may review a facility owner license or facility manager license more often than annually upon its own initiative or upon the request of any interested party. The commission shall require each facility owner licensee and each facility manager licensee to file annually with the commission a certified financial audit of the licensee by an independent certified public accountant, which audit shall be open to inspection by the public, and may require any such licensee to provide any other information necessary for the commission to conduct the annual or periodic review.

(i) Subject to the provisions of subsection (j), the commission, in accordance with the Kansas administrative procedure act, may suspend or revoke a facility owner or facility manager license or may impose a civil fine not exceeding \$10,000 per failure or violation, or may both suspend such license and impose such fine, if the commission finds probable cause to believe that:

(1) In the case of a facility owner licensee, the licensee has failed to follow one or more provisions of the licensee's plans for the financing, construction or operation of a racetrack facility as submitted to and approved by the commission; or

(2) in the case of either a facility owner licensee or facility manager licensee, the licensee has violated any of the terms and conditions of licensure provided by this section or any other provision of this act or any rule and regulation of the commission.

(j) Prior to suspension or revocation of a license pursuant to subsection (i), the commission shall give written notice of the reason therefor to the licensee and all other interested parties. The licensee shall have 30 days from receipt of the notice to cure the alleged failure or violation, if it can be cured. If the commission finds that the failure or violation has not been cured upon expiration of the 30 days or upon a later deadline granted by the commission, or if the alleged violation is of such a nature that it cannot be cured, the commission may proceed to suspend or revoke the licensee's license pursuant to subsection (i). Nothing in this subsection shall be construed to preclude the commission from imposing a fine pursuant to subsection (i) even if the violation is cured within 30 days or such other period as provided by the commission.

(k) If an applicant for a facility owner license proposes to construct a racetrack facility and the commission determines that such license should be issued to the applicant, the commission shall issue to the applicant a facility owner license conditioned on the submission by the licensee to the commission, within a period of time prescribed by the commission, of a commitment for financing the construction of the racetrack facility by a financial institution or other source, subject to approval by the commission. If such commitment is not submitted within the period of time originally prescribed by the commission or such additional time as authorized by the commission, the license shall expire at the end of such period.

(l) If a facility owner licensee's license authorizes the construction of a dual racetrack facility, such license shall be conditioned on the completion of such facility within a time specified by the commission. If, within the time specified by the commission, the licensee has not constructed a dual racetrack facility in accordance with the plans submitted to the commission pursuant to subsection (e), the commission, in accordance with the Kansas administrative procedure act, shall:

(1) Impose upon the licensee a civil fine equal to 5% of the total parimutuel pools for all races held at the licensee's facility on and after the date that racing with parimutuel wagering is first conducted at such facility and until the date that construction of the dual racetrack facility is completed and horse racing has begun; and

(2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the failure to complete the facility.

(m) The refusal to renew a facility owner license or a facility manager license shall be in accordance with the Kansas administrative procedure act and shall be subject to review under the act for judicial review and civil enforcement of agency actions.

(n) The grant or denial of an original facility owner license or facility manager license shall not be subject to the Kansas administrative procedure act. Such grant or denial shall be a matter to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one of two or more competing applicants without the necessity of a hearing on the denial of a license to each other competing applicant. Any action for judicial review of such decision shall be by appeal to the supreme court in accordance with the act for judicial review and civil enforcement of agency actions, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for the facility owner license or facility manager license shall be parties to such appeal. Any such appeal shall have priority over other cases except those having statutory priority.

(o) The commission may adopt rules and regulations regulating crossover employment between facility manager licensees and facility owner licensees and organization licensees.

History: L. 1987, ch. 112, § 15; L. 1988, ch. 316, § 3; L. 1988, ch. 317, § 2; L. 1988, ch. 318, § 2; L. 1988, ch. 319, § 2; L. 1991, ch. 247, § 2; L. 1992, ch. 286, § 7; L. 1996, ch. 262, § 5; May 30.

74-8816.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8816. Occupation licenses.

(a) The commission shall require occupation licenses for:

(1) Any owner of a horse or greyhound participating in a race conducted by an organization licensee;
(2) any person whose work, in whole or in part, is conducted within a racetrack facility owned or leased by an organization licensee, including trainers, jockeys, agents, apprentices, grooms, exercise persons, veterinarians, valets, blacksmiths, stewards, racing judges, starters, timers, supervisors of mutuels, parimutuel tellers and clerks, guards and such other personnel designated by the commission.

(b) An occupation license shall be obtained from the commission prior to the time a person engages in activities for which such license is required, regardless of whether a race meeting is being conducted.

(c) A person required to be licensed pursuant to subsection (a) shall apply for such license in a manner and upon forms prescribed and furnished by the commission. The commission may require the applicant to submit to fingerprinting. Occupation licenses shall be issued for a period established by the commission but not less than one year or more than three years. The commission shall establish the amount of application fees and license fees for different types of occupation licenses, but no such fee shall exceed \$200 a year. The application fee shall not be refundable if the applicant fails to qualify for a license and shall include the cost of processing fingerprints if they are required by the commission.

(d) The commission may require an applicant for an occupation license as a condition of licensure to consent to allow agents of the Kansas bureau of investigation or security personnel of the commission to search without warrant the licensee's person, personal property and work premises while within the racetrack facility or adjacent facilities under the control of the organization licensee for the purpose of investigating possible criminal violations of this act or violations of rules and regulations of the commission.

(e) Denial of an occupation license by the commission shall be in accordance with the Kansas administrative procedure act. The commission may refuse to issue an occupation license to any person who:

(1) Has been convicted of a felony by a court of any state or of the United States or has been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute a felony;

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

(3) is not qualified to perform the duties associated with the license being applied for;

(4) fails to disclose any material fact or provides information, knowing such information to be false, when applying for the license;

(5) has been found by the commission to have violated any provision of this act or any rule and regulation of the commission;

(6) has had an occupation license suspended, revoked or denied for just cause in any other jurisdiction;

(7) has committed two or more acts of violence within the past two years as established by a court of competent jurisdiction of any state or of the United States; or

(8) has failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

(f) The commission may suspend or revoke an occupation license for any reason which would justify refusal to issue such a license and may impose a fine not exceeding \$5,000 for each violation upon any occupation licensee found to have violated any provision of this act or any rule and regulation of the commission. Such fine may be imposed in addition to or in lieu of suspending or revoking such person's occupation license. Proceedings for the suspension or revocation of an occupation license or imposition of a fine pursuant to this subsection shall be conducted by the commission or its appointed hearing officer in accordance with the Kansas administrative procedure act, except that, and notwithstanding the provision of K.S.A. 77-512, subsection (b) of K.S.A. 77-526 and subsection (b)(3) of K.S.A. 77-530(b)(3), and amendments thereto, any order entered by a hearing officer appointed by the commission imposing such a fine or suspension shall be a final order and effective when served.

(g) The commission may provide by rules and regulations for the temporary suspension of an occupation license by summary adjudicative proceedings in accordance with the Kansas administrative procedure act upon finding that there is probable cause to believe that grounds exist for a permanent suspension or revocation of such license. Such suspension shall be for a period not exceeding 30 days. Upon expiration of such suspension, the license shall be restored unless the license has been suspended or revoked pursuant to subsection (f).

(h) The stewards at any horse race meeting and the racing judges at any greyhound race meeting may impose on an occupation licensee a civil fine not exceeding \$500 or may suspend any occupation licensee's license for a period not exceeding 15 days upon a finding by at least two of the stewards or racing judges that there is probable cause to believe that the occupation licensee has violated the provisions of this act or any rule or regulation of the commission. No such fine or suspension shall be ordered except after notice and opportunity for hearing in accordance with procedures established by rules and regulations of the commission. Any order imposing such a fine or suspension is effective when rendered. The order shall be subject to appeal to the commission, and may be stayed pending such appeal, as provided by rules and regulations of the commission. Proceedings on appeal shall be in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1987, ch. 112, § 16; L. 1988, ch. 316, § 4; L. 1991, ch. 247, § 3; L. 1992, ch. 286, § 8; L. 1996, ch. 262, § 6; L. 1998, ch. 178, § 5; May 21.

74-8817.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8817. Concessionaire licenses.

(a) No organization licensee or facility manager licensee shall permit any business not owned and operated by the organization licensee to sell goods or services within a racetrack facility where the organization licensee conducts race meetings unless such business has been issued a concessionaire license by the commission.

(b) Businesses required to be licensed pursuant to this section shall apply for concessionaire licenses in a manner and upon forms prescribed and furnished by the commission. The commission shall require disclosure of information about the owners and officers of each applicant and may require such owners and officers to submit to fingerprinting. The commission also may require disclosure of information about and fingerprinting of such employees of each applicant as the commission considers necessary. Concessionaire licenses shall be issued for a period of time established by the commission but not to exceed 10 years. The commission shall establish a schedule of application fees and license fees for concessionaire licenses based upon the type and size of business. The application fee shall not be refundable if the business fails to qualify for a license. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(c) The commission may require applicants as a condition of licensure to consent to allow agents of the Kansas bureau of investigation or security personnel of the commission to search without warrant the licensee's premises and personal property and the persons of its owners, officers and employees while engaged in the licensee's business within the racetrack facility or adjacent facilities under the control of the organization licensee for the purpose of investigating criminal violations of this act or violations of rules and regulations of the commission.

(d) Denial of a concessionaire license by the commission shall be in accordance with the Kansas administrative procedure act. The commission may refuse to issue a concessionaire license to any business if any person having an ownership interest in such business, any person who is an officer of such business or any person employed by such business within the racetrack facility:

(1) Has been convicted of a felony in a court of any state or of the United States or has been adjudicated in the last five years in any such court of committing as a juvenile an act which, if committed by an adult, would constitute a felony;

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

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

(4) has been found by the commission to have violated any provision of this act or any rule and regulation of the commission; or

(5) has failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

(e) The commission may suspend or revoke the concessionaire license of any business for any reason which would justify refusal to issue such a license. Proceedings to suspend or revoke such license shall be conducted by the commission or its appointed hearing officer in accordance with the provisions of the Kansas administrative procedure act.

(f) The commission may provide by rules and regulations for the temporary suspension of a concessionaire license by summary adjudicative proceedings in accordance with the Kansas administrative procedure act upon finding that there is probable cause to believe that grounds exist for a permanent suspension or revocation of such license. Such suspension shall be for a period not exceeding 30 days. Upon expiration of such suspension, the license shall be restored unless the license has been suspended or revoked as a result of proceedings conducted pursuant to subsection (e).

History: L. 1987, ch. 112, § 17; L. 1989, ch. 246, § 3; L. 1992, ch. 286, § 9; L. 1996, ch. 262, § 7; May 30.

74-8826.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8826. State racing fund.

(a) There is hereby created the state racing fund in the state treasury.

(b) Except as otherwise provided by K.S.A. 74-8824 and 74-8835, and amendments thereto, all taxes on parimutuel wagering, admissions tax, application fees, license fees and fines which are collected by the commission shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the state racing fund. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(c) Except as otherwise provided by this act, all operating expenses of the commission and moneys for the promotion of horse and greyhound racing appropriated by the legislature shall be paid from the state racing fund. On January 15, 1990, and on the 15th day of each month thereafter, and at such other times as provided by law, the director of accounts and reports shall transfer to the state gaming revenues fund created by K.S.A. 79-4801 and amendments thereto any moneys in the state racing fund on each such date in excess of the amount required for operating expenditures and an adequate fund balance, taking into consideration encumbrances, anticipated revenues, revenue and expenditure experience to date and other relevant factors, as determined by the executive director and the director of accounts and reports.

(d) Any appropriation or transfer of state general fund moneys for the operation of the commission or the office of the executive director and any other expenses incurred in connection with the administration and enforcement of this act shall be considered a loan and shall be repaid with interest to the state general fund in accordance with appropriation acts. Such loan shall not be considered an indebtedness or debt of the state within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Such loan shall bear interest at a rate equal to the rate prescribed by K.S.A. 75-4210 and amendments thereto for inactive accounts of the state effective on the first day of the month during which the appropriation or transfer takes effect.

(e) At the time of repayment of a loan pursuant to subsection (d), the executive director shall certify to the director of accounts and reports the amount to be repaid and any interest due thereon. Upon receipt of such certification, the

director of accounts and reports shall promptly transfer the amount certified from the state racing fund to the state general fund.

History: L. 1987, ch. 112, § 26; L. 1988, ch. 316, § 5; L. 1988, ch. 317, § 3; L. 1988, ch. 319, § 3; L. 1989, ch. 247, § 1; July 1.

74-8837.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 88.--PARIMUTUEL RACING

74-8837. Racing or wagering equipment or services licenses.

(a) No organization licensee or facility manager licensee shall permit any business not owned and operated by the organization licensee to provide integral racing or wagering equipment or services, as designated by the commission, to an organization licensee unless such business has been issued a racing or wagering equipment or services license by the commission. Such equipment and services include but are not limited to totalisator, photo finish, video replay and video reception and transmission equipment or services.

(b) Businesses required to be licensed pursuant to this section shall apply for racing or wagering equipment or services licenses in a manner and upon forms prescribed and furnished by the commission. The commission shall require disclosure of information about the owners and officers of each applicant and may require such owners and officers to submit to fingerprinting. The commission also may require disclosure of information about and fingerprinting of such employees of each applicant as the commission considers necessary. Racing or wagering equipment or services licenses shall be issued for a period of time established by the commission but not to exceed 10 years. The commission shall establish a schedule of application fees and license fees for racing or wagering equipment or services licenses based upon the type and size of business. The application fee shall not be refundable if the business fails to qualify for a license. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(c) The commission may require applicants as a condition of licensure to consent to allow agents of the Kansas bureau of investigation or security personnel of the commission to search without warrant the licensee's premises and personal property and the persons of its owners, officers and employees while engaged in the licensee's business within the racetrack facility or adjacent facilities under the control of the organization licensee for the purpose of investigating criminal violations of this act or violations of rules and regulations of the commission.

(d) Denial of a racing or wagering equipment or services license by the commission shall be in accordance with the Kansas administrative procedure act. The commission may refuse to issue a racing or wagering equipment or services license to any business if any person having an ownership interest in such business, any person who is an officer of such business or any person employed by such business within the racetrack facility:

(1) Has been convicted of a felony in a court of any state or of the United States or has been adjudicated in the last five years, in any such court of committing as a juvenile an act which, if committed by an adult, would constitute a felony;

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

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

(4) has been found by the commission to have violated any provision of this act or any rule and regulation of the commission; or

(5) has failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

(e) The commission may suspend or revoke the racing or wagering equipment or services license of any business for any reason which would justify refusal to issue such a license. Proceedings to suspend or revoke such license shall be conducted by the commission or its appointed hearing officer in accordance with the provisions of the Kansas administrative procedure act.

(f) The commission may provide by rules and regulations for the temporary suspension of a racing or wagering equipment or services license by summary adjudicative proceedings in accordance with the Kansas administrative procedure act upon finding that there is probable cause to believe that grounds exist for a permanent suspension or revocation of such license. Such suspension shall be for a period not exceeding 30 days. Upon expiration of such suspension, the license shall be restored unless the license has been suspended or revoked as a result of proceedings conducted pursuant to subsection (e).

(g) This section shall be part of and supplemental to the Kansas parimutuel racing act.

History: L. 1992, ch. 286, § 10; L. 1994, ch. 146, § 10; L. 1996, ch. 262, § 10; May 30.

74-9801.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9801. Title of act.

K.S.A. 1998 Supp. 74-9801 through 74-9809 shall be known and may be cited as the tribal gaming oversight act.

History: L. 1996, ch. 256, § 1; July 1.

74-9802.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9802. Definitions.

As used in the tribal gaming oversight act:

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

(b) "Executive director" means the executive director of the state gaming agency.

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

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

(e) "Tribal gaming facility" means a facility where tribal gaming is conducted or operated.

(f) "Tribal-state gaming compact" means a compact entered into between the state of Kansas and the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the Prairie Band Potawatomi Nation in Kansas or the Sac and Fox Nation of Missouri in Kansas and Nebraska with respect to the tribe's authority to engage in class III gaming on the tribe's reservation property in the state of Kansas.

History: L. 1996, ch. 256, § 2; July 1.

74-9803.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9803. State gaming agency; administration.

(a) The state gaming agency is hereby transferred from the department of commerce and housing, designated by Executive Order No. 95-177 as the state gaming agency, and is attached to and made a part of the Kansas racing and gaming commission. The budget of the state gaming agency, the number and qualifications of employees of the state gaming agency and expenditures by the state gaming agency for expenses of dispute resolution pursuant to a tribal-state gaming compact shall be subject to approval by the Kansas racing and gaming commission. All other management functions of the state gaming agency shall be administered by the executive director. All vouchers for expenditures and all payrolls of the state gaming agency shall be approved by the executive director or a person designated by the executive director.

(b) Nothing in this act shall be construed as abolishing or reestablishing the state gaming agency.

History: L. 1996, ch. 256, § 3; July 1.

74-9804.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9804. Executive director and other personnel of agency; qualifications.

(a) (1) The governor shall appoint, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto, an executive director of the state gaming agency, to serve at the pleasure of the governor.

Before appointing any person as executive director, the governor shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The executive director shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the executive director's assigned duties; (C) be a citizen of the United States and an actual resident of Kansas during employment as executive director; (D) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment; and (E) have familiarity with gaming industries sufficient to fulfill the duties of the office of executive director.

(3) The executive director shall: (A) Determine, subject to the approval of the Kansas racing and gaming commission, the number and qualifications of employees necessary to implement and enforce the provisions of tribal-state gaming compacts and the provisions of the tribal gaming oversight act; (B) employ persons for those positions; and (C) perform such other duties as required by tribal-state gaming compacts.

(b) (1) The executive director may appoint a director of enforcement and compliance to serve at the pleasure of the executive director. Before appointing any person as director of enforcement and compliance, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The director of enforcement and compliance shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the director's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as director of enforcement and compliance; (E) not have been convicted of a felony under the laws of any state or of the United States prior to and during employment as director

of compliance; and (F) have been a professional law enforcement officer with a minimum of five years' experience in the field of law enforcement and at least a bachelor's degree in law enforcement administration, law, criminology or a related science or, in lieu thereof, a minimum of 10 years' experience in the field of law enforcement.

(3) The director of enforcement and compliance shall: (A) Be vested with law enforcement authority; (B) conduct investigations relating to compliance with the provisions of tribal-state gaming compacts and the provisions of the tribal gaming oversight act;

(C) recommend proper compliance measures to tribal gaming commissions;

(D) train and supervise such personnel as employed by the executive director to assist with such duties; and

(E) perform such other duties as directed by the executive director.

(c) (1) The executive director may appoint enforcement agents. Before appointing any person as a enforcement agent, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) Each enforcement agent shall: (A) Be vested with law enforcement authority;

(B) be in the classified service under the Kansas civil service act;

(C) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment as enforcement agent; and

(D) be a professional law enforcement officer with a minimum of two years' experience in the field of law enforcement or, in lieu thereof, a bachelor's degree from an accredited university or college.

(3) Enforcement agents shall: (A) Conduct investigations relating to compliance with the provisions of tribal-state gaming compacts or the provisions of the tribal gaming oversight act; and (B) perform such other duties as directed by the executive director or the director of enforcement and compliance.

History: L. 1996, ch. 256, § 4; L. 1998, ch. 178, § 8; May 21.

74-9805.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9805. Powers and duties of agency.

(a) The state gaming agency shall be responsible for oversight of class III gaming conducted pursuant to tribal-state compacts and, as such, shall monitor compliance with tribal-state gaming compacts and perform the duties of the state gaming agency as provided by tribal-state gaming compacts.

(b) The state gaming agency may examine and inspect all tribal gaming facilities and facilities linked to Kansas tribal gaming facilities for gaming, including but not limited to all machines and equipment used for tribal gaming.

(c) The state gaming agency may examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records, electronic records, computer records or surveillance and security tapes and logs of any tribal gaming facility in accordance with tribal-state gaming compacts.

(d) The executive director may issue subpoenas to compel access to or for the production of any books, papers, records, electronic records, computer records or surveillance and security tapes and logs in the custody or control of a tribal gaming facility or any officer, employee or agent of a tribal gaming facility, or to compel the appearance of any officer, employee or agent of a tribal gaming facility, for the purpose of ascertaining compliance with any of the provisions of a tribal-state gaming compact or the tribal gaming oversight act. Subpoenas issued pursuant to this subsection may be served upon individuals and corporations in the same manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to any court of competent jurisdiction.

(e) The state gaming agency may institute the dispute resolution procedure, in accordance with a tribal-state gaming compact, to ensure production of the documents required by the tribal-state gaming compact and to ensure compliance with all provisions of the compact.

- (f) The state gaming agency shall monitor, examine and inspect tribal gaming to ensure that tribal gaming is conducted in compliance with tribal-state gaming compacts.
- (g) The state gaming agency shall review all licensing and disciplinary actions taken by tribal gaming commissions or any party involved in the tribal gaming and assess if the action complies with the terms of the applicable tribal-state gaming compact.
- (h) The executive director, or a designated employee, shall report any substantial noncompliance with a tribal-state gaming compact to the governor.
- (i) The state gaming agency may negotiate a resolution between any tribe conducting or operating tribal gaming and any local or county governmental entity regarding the allocation or payment of additional expenses or costs incurred by the governmental entity as a result of tribal gaming, as provided by the applicable tribal-state gaming compacts.
- (j) The state gaming agency may adopt background investigation and fingerprinting policies or procedures in accordance with the terms of tribal-state gaming compacts.
- (k) The state gaming agency shall perform all functions and duties required to comply with and ensure tribal compliance with tribal-state gaming compacts.
- (l) The state gaming agency shall require fingerprinting of all persons necessary to verify qualifications for employment by the state gaming agency or to verify qualification for any license issued pursuant to a tribal-state gaming compact. The state gaming agency shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.
- (m) (1) The state gaming agency may receive from the Kansas bureau of investigation or other criminal justice agencies, including but not limited to the federal bureau of investigation and the federal internal revenue service, such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of employees of and applicants for employment by the state gaming agency and determining qualifications of licensees and applicants for licensure in tribal gaming. Upon the written request of the executive director, the state gaming agency may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of employees of and applicants for employment by the state gaming agency and determining qualifications of licensees of and applicants for licensure in tribal gaming.
- (2) The state gaming agency may disclose information received pursuant to subsection (m)(1) to a tribal gaming commission as necessary for the purpose of determining qualifications of employees of or applicants for employment by such tribal gaming commission or qualifications of licensees or applicants for licensure by such tribal gaming commission.
- (3) Any information, other than conviction data, received by the state gaming agency pursuant to subsection (m)(1) or by a tribal gaming commission pursuant to subsection (m)(2) shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission as necessary for the purposes specified by subsections (m)(1) and (m)(2). Any other disclosure of such confidential information is a class A nonperson misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued by the tribal gaming commission.
- (n) The executive director may adopt rules and regulations to implement, administer and enforce the provisions of the tribal gaming oversight act.

History: L. 1996, ch. 256, § 5; July 1.

74-9806.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9806. Law enforcement powers, certain employees; duties of KBI.

(a) The director of enforcement and compliance and all enforcement agents are hereby vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the state gaming agency by the provisions of the tribal gaming oversight act and tribal-state gaming compacts and shall have the authority to:

(1) Make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during routine conduct of their duties as determined by the executive director;

(2) make arrests, conduct searches and seizures and generally enforce all criminal laws of the state as violations of such laws are encountered by such employees during the routine performance of their duties; and

(3) issue notices to appear pursuant to K.S.A. 22-2408, and amendments thereto.

(b) No employee of the state gaming agency shall be certified to carry firearms under the provisions of this section without having first successfully completed the firearms training course or courses prescribed for law enforcement officers under subsection (a) of K.S.A. 74-5604a, and amendments thereto. The executive director may adopt rules and regulations prescribing other training required for such employees.

(c) It shall be the duty of the Kansas bureau of investigation to conduct, or assist enforcement personnel of the state gaming agency and other law enforcement agencies in conducting, investigations of violations of tribal-state gaming compacts, criminal violations of the laws of this state at tribal gaming facilities, criminal violations of the tribal gaming oversight act and other criminal activities related to tribal gaming. Such duty may be performed independently of or in conjunction with employees of the state gaming agency designated pursuant to this section or tribal gaming commission inspectors. Employees of the state gaming agency shall report immediately any criminal violations of the tribal gaming oversight act and any criminal activities or suspected criminal activities at tribal gaming facilities to the Kansas bureau of investigation. Employees of the Kansas bureau of investigation shall report any violations or suspected violations of the tribal gaming oversight act to the executive director or to employees of the state gaming agency designated pursuant to this section.

History: L. 1996, ch. 256, § 6; L. 1998, ch. 178, § 9; May 21.

74-9807.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9807. Interagency agreements; costs.

A tribal gaming commission, the Kansas bureau of investigation or the state gaming agency may enter into agreements with the federal bureau of investigation, the federal internal revenue service, the Kansas attorney general or any state, federal or local agency as necessary to carry out the duties of the tribal gaming commission, the Kansas bureau of investigation or the state gaming agency under a tribal-state gaming compact. Any consideration paid by the state gaming agency or the Kansas bureau of investigation for the purpose of entering into or carrying out any agreement shall be considered an administrative expense of the state gaming agency and shall be assessed in accordance with the applicable tribal-state gaming compact. When such agreements are entered into for responsibilities relating to licensing, as set forth in a tribal-state gaming compact, the tribal gaming commission may provide by rules and regulations for the licensees to pay the costs incurred.

History: L. 1996, ch. 12, § 3; L. 1996, ch. 256, § 7; July 1.

74-9808.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9808. Tribal gaming fund.

- (a) There is hereby created the tribal gaming fund in the state treasury.
- (b) All amounts collected by the state gaming agency pursuant to tribal-state gaming compacts shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the tribal gaming fund. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and tribal-state gaming compacts. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or a person designated by the executive director.
- (c) All operating expenses of the state gaming agency and the provisions of the tribal gaming oversight act shall be paid from the tribal gaming fund.
- (d) The executive director and the director of accounts and reports may provide for the establishment of such accounts in the tribal gaming fund as necessary or expedient to carry out the state's responsibilities and authority under tribal-state gaming compacts and the provisions of the tribal gaming oversight act.
- (e) Any appropriation or transfer of state general fund moneys for operations of the state gaming agency and any other expenses incurred in connection with the administration and enforcement of tribal-state gaming compacts or the provisions of the tribal gaming oversight act shall be considered a loan and shall be repaid with interest to the state general fund in accordance with appropriation acts. Such loan shall not be considered an indebtedness or debt of the state within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Such loan shall bear interest at a rate equal to the rate prescribed by K.S.A. 75-4210 and amendments thereto for inactive accounts of the state effective on the first day of the month during which the appropriation or transfer takes effect.
- (f) At the time of repayment of a loan pursuant to subsection (d), the executive director shall certify to the director of accounts and reports the amount to be repaid and any interest due thereon. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified from the tribal gaming fund to the state general fund.

History: L. 1996, ch. 256, § 8; July 1.

74-9809.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 98.--TRIBAL GAMING OVERSIGHT

74-9809. Prohibited acts; penalties.

- (a) It is a class A nonperson misdemeanor for any person to have a financial interest, directly or indirectly, in any tribal gaming facility or any host facility that conducts or operates a game which can be played at a tribal gaming facility in this state and in which a progressive jackpot can be awarded while such person is executive director or an employee of the state gaming agency or during the five years immediately following termination of such person's employment as executive director or an employee of the state gaming agency.
- (b) It is a class A nonperson misdemeanor for the executive director or any employee of the state gaming agency to knowingly:
 - (1) Place a wager or bet or play an electronic game of chance at a tribal gaming facility in Kansas;
 - (2) participate directly or indirectly as an owner, operator, manager or consultant in tribal gaming in Kansas; or

(3) accept any compensation, gift, loan, entertainment, favor or service from any person or entity licensed pursuant to a tribal-state gaming compact, except such suitable facilities and services within a tribal gaming facility in Kansas as may be required to facilitate the performance of the member's, employee's or appointee's official duties.

(c) It is a class A nonperson misdemeanor for the executive director or any employee of the state gaming agency, or any spouse, parent, grandparent, brother, sister, child, grandchild, uncle, aunt, parent-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law thereof, to:

(1) Hold any license issued pursuant to a tribal-state gaming compact; or

(2) enter into any business dealing, venture or contract with an owner or operator of a tribal gaming facility in Kansas other than as required to complete the duties of the compact.

(d) It is a class A nonperson misdemeanor for any holder of a license issued pursuant to a tribal-state gaming compact to allow any person, directly or indirectly, to place a wager or play any class III game, gaming device or electronic game of chance at a tribal gaming facility, knowing such person to be under 21 years of age.

(e) It is a severity level 8, nonperson felony for any person to use or conspire to use any device for the purpose of effecting the outcome of any class III game, gaming device or electronic game of chance at a tribal gaming facility.

(f) No person less than 18 years of age shall place, directly or indirectly, any wager or play any class III game, gaming device or electronic game of chance at a tribal gaming facility. Any person violating this subsection shall be subject to adjudication as a juvenile offender pursuant to the Kansas juvenile offenders code.

(g) It is a class A nonperson misdemeanor for any person 18 or more years of age but less than 21 years of age, directly or indirectly, to place any wager or play any class III game, gaming device or electronic game of chance at a tribal gaming facility.

(h) It is a severity level 8 nonperson felony for any person playing or using any class III game, gaming device or electronic game of chance at a tribal gaming facility to:

(1) Knowingly use bogus or counterfeit chips or gaming billets or knowingly substitute and use in any such game cards or dice that have been marked, loaded or tampered with;

(2) knowingly use other than a lawful coin or legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in an electronic game of chance, except that in the playing of any electronic game of chance or similar gaming device, it shall be lawful for any person to use gaming billets, tokens or similar objects therein which are approved by the tribal gaming commission having responsibility for the tribal gaming facility; or

(3) win or attempt to win, for the person's self or another, by any trick or sleight of hand performance, or by a fraud or fraudulent scheme, cards, dice or device, money or property or a representative of either, or reduce or attempt to reduce a losing wager, in connection with tribal gaming in a value of \$100 or greater.

(i) It is a severity level 8 nonperson felony for any person knowingly to possess or use, while on the premises of a tribal gaming facility, any cheating or thieving device, including but not limited to tools, wires drills, coins attached to strings or wires or electronic or magnetic devices to facilitate removing from any electronic game of chance any money or contents thereof, except that a duly authorized employee of a licensed tribal gaming facility or tribal gaming commission may possess and use any of the foregoing only in furtherance of the employee's employment in the tribal gaming facility.

(j) It is a severity level 8 nonperson felony for any person to knowingly possess or use while on the premises of any tribal gaming facility any key or device designed for the purpose of or suitable for opening or entering any electronic game of chance or similar gaming device or drop box, except that a duly authorized employee of a tribal gaming facility or tribal gaming commission may possess and use any of the foregoing only in furtherance of the employee's employment in the tribal gaming facility.

(k) It is a severity level 8 nonperson felony to:

(1) Knowingly conduct, carry on, operate, deal or allow to be conducted, carried on or dealt any cheating or thieving class III game or device; or

(2) knowingly deal, conduct, carry on, operate or expose for play any class III game or games played with cards, dice or any mechanical or electronic device, or any combination of class III games or devices, which have in any manner been marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game which could determine or alter the result of the game.

(l) It is a severity level 8 nonperson felony to knowingly use or possess any marked cards, loaded dice, plugged or tampered with machines or devices, including but not limited to electronic games of chance.

(m) It is a severity level 8 nonperson felony for any person or entity to possess any device, equipment or material which the person knows has been manufactured, distributed, sold, tampered with or serviced in violation of the provisions of a tribal-state gaming compact.

(n) It is a class A nonperson misdemeanor for any person to win, for the person's self or another, by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice or device, money or property or a representative of either, or reduce or attempt to reduce a losing wager, in connection with tribal gaming in a value of less than \$100.

History: L. 1996, ch. 256, § 9; July 1.

75-709.

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

Article 7.--ATTORNEY GENERAL

75-709. Accounting for fees and moneys.

It shall be the duty of the attorney general to pay into the state treasury for the benefit of the general revenue fund all fees and allowances of every kind and character paid to him or her under color of any general or special statute for criminal convictions secured by him or her in violations of the prohibitory law and fees awarded to the attorney general by virtue of any statute for abating liquor nuisances and all fees and allowances for enforcing all civil or criminal laws against monopolies and in restraint of trade and against gambling nuisances and practices and every other fee or allowance in any civil or criminal case whatsoever, whether specifically mentioned in this act or not; and for the appropriation to his or her private use of any such fee or allowance the attorney general shall forfeit his or her office and may be removed in the manner provided by law.

History: R.S. 1923, 75-709; Dec. 27.

75-4319.

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

Article 43.--PUBLIC OFFICERS AND EMPLOYEES

75-4319. Closed or executive meetings; conditions; authorized subjects for discussion; binding action prohibited.

(a) Upon formal motion made, seconded and carried, all bodies and agencies subject to this act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
 - (6) preliminary discussions relating to the acquisition of real property;
 - (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;
 - (8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (a)(2)(J) of K.S.A. 38-1507 and amendments thereto or subsection (f) of K.S.A. 38-1508 and amendments thereto;
 - (9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
 - (10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;
 - (11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 1997 Supp. 39-7,119 and amendments thereto; and
 - (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact.
- (c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

History: L. 1972, ch. 319, § 3; L. 1977, ch. 301, § 3; L. 1981, ch. 344, § 1; L. 1988, ch. 315, § 4; L. 1992, ch. 318, §

79-4703.

Chapter 79.--TAXATION

Article 47.--BINGO

79-4703. Licensure; application; fee; restrictions; leased premises, requirements and registration certificate.

(a) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization desiring to manage, operate or conduct games of bingo within the state of Kansas may make application for a license therefor in the manner provided under this section. Application for licenses required under the provisions of this act shall be made to the secretary of revenue upon forms prepared by the secretary of revenue or the secretary's designee and shall contain:

- (1) The name and address of the organization;
- (2) the particular place or location for which a license is desired;
- (3) a sworn statement verifying that such organization is a bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization authorized to operate within the state of Kansas signed by the presiding officer and secretary of the organization; and
- (4) such other information as may be required by the secretary of revenue.

(b) No bingo license shall be issued to any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization if any of its officers, directors or officials or persons employed on the premises:

- (1) Has been convicted of, has pleaded guilty to or pleaded *nolo contendere* to a violation of gambling laws of any state or the gambling laws of the United States, or shall have forfeited bond to appear in court to answer charges for any such violation, or has been convicted or pleaded guilty or pleaded *nolo contendere* to the violation of any law of this or any other state which is classed as a felony under the laws of such state;
- (2) at the time of application for renewal of a bingo license issued hereunder would not be eligible for such license upon a first application.

(c) An application for a license required under the provisions of this act shall be accompanied by a fee of \$25 and if such organization is to conduct bingo on any leased premises, the terms of the lease shall be reduced to writing and a copy of the lease shall be submitted to the secretary of revenue. The secretary of revenue shall have the power and authority to approve or disapprove any lease submitted. No lease, which has been approved by the secretary of revenue, shall be amended, modified or renewed in any manner until such amendments, modifications or renewals

of such lease have been approved by and are on file with the secretary of revenue. No lease submitted to the secretary of revenue shall be approved unless:

(1) The rental cost of the premises itself is fair and reasonable and, in no event, shall the rent charged for any session of bingo exceed 50% of the net proceeds for the session after payment of prizes and taxes or the fair and reasonable rental value determined by the secretary of revenue, whichever is less. The rental costs so charged shall be substantiated to the secretary of revenue under rules and regulations adopted by the secretary.

(2) Any costs additional to the costs under paragraph (1) of this subsection (c) which are to be borne by the lessee shall reflect the actual costs incurred by the lessor and shall first be substantiated to the secretary of revenue.

(3) No costs shall be borne by the lessee unless such costs are enumerated in the lease submitted to the secretary of revenue.

Each license issued shall expire at midnight on June 30 following its date of issuance. A licensee may hold only one license and that license is valid for only one location. However, any licensee may operate or conduct games of bingo, not to exceed five days in any one year, at locations other than that specified in the license and if any licensee does operate or conduct games of bingo under this provision at a location other than that specified in the license, such licensee shall submit a written notification to the secretary of revenue, at least three days prior to operating or conducting bingo at the change of location. No organization shall be issued a license to operate or conduct games of bingo at any location outside the county within which such organization is located as reported in its application for licensure pursuant to subsection (a), nor shall any licensee operate or conduct games of bingo at any location outside the county within which such licensee is located. Licenses issued under the provisions of this act shall not be transferred or assignable. If any organization licensed to play bingo changes any of its officers, directors or officials during the term of its bingo license, such organization shall report the names and addresses of such individuals to the secretary of revenue immediately with the sworn statement of each such individual as required on forms furnished by the secretary of revenue. No organization which denies its membership to persons for the reason of their race, color or physical handicap, shall be granted or allowed to retain a license issued under the authority of this act. Except for nonprofit adult care homes licensed under the laws of the state of Kansas, no license shall be issued to any organization under the provisions of this act which has not been in existence continuously within the state of Kansas for a period of 18 months immediately preceding the date of making application for a license. The licensee shall display the license in a prominent place in the vicinity of the area where it is to conduct bingo.

(d) No lessor of premises used for the management, operation or conduct of any games of bingo shall permit the management, operation or conduct of bingo games on such premises unless and until such lessor has made application for and has been issued a registration certificate by the secretary of revenue. Application for registration shall be accompanied by a fee in the amount of \$100 and shall be made upon forms prescribed by the secretary and shall contain:

(1) The name or names of the lessor of premises which will be used for the management, operation or conduct of any games of bingo including, in the case of a corporation, partnership, association, trust or other entity, the names of all individuals having more than a 10% ownership interest, either directly or indirectly in such entity;

(2) the address of such premises;

(3) the name or names of any and all organizations which will manage, operate or conduct any games of bingo on such premises during the period for which the registration certificate is valid;

(4) such other information as may be required by the secretary.

(e) Each registration certificate, or renewal thereof, issued under the provisions of subsection (d) shall expire at midnight on June 30 following its date of issuance. The certificate of registration shall be valid for only one premises and shall be prominently displayed in the registered premises.

(f) The secretary of revenue shall not issue a registration certificate for any premises if any individual who is connected in any way, directly or indirectly, with the owner or lessor of the premises has, within five years prior to registration, been convicted of or pleaded guilty or *nolo contendere* to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

History: L. 1975, ch. 491, § 3; L. 1977, ch. 341, § 5; L. 1982, ch. 425, § 2; L. 1984, ch. 366, § 2; July 1.

79-4706.

Chapter 79.--TAXATION

Article 47.--BINGO

79-4706. Restrictions on bingo games and instant bingo tickets.

Games of bingo managed, operated or conducted by organizations licensed under the provisions of this act shall be managed, operated or conducted subject to rules and regulations adopted by the secretary of revenue and the following restrictions:

- (a) The entire gross receipts received by any such organization from the operation or conduct of games of bingo, except that portion utilized for the payment of the cost of prizes and license fees and taxes imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the organization permitted to conduct that game.
- (b) No person except a bona fide member or spouse of a bona fide member of the sponsoring organization or parent organization or an auxiliary unit or society of such sponsoring organization may participate in the management, conduct or operation of any game of bingo.
- (c) No lessor, any employee of any such lessor or any employee, officer or shareholder of a for profit corporation which is the lessor, shall play any game of bingo on premises leased by any such lessor or shall be responsible for or assist in the management, operation or conduct of any game of bingo on such premises.
- (d) No person may participate in the management, conduct or operation of bingo games if such person, within five years prior to such participation, has been convicted of or pleaded guilty or *nolo contendere* to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.
- (e) No person may receive any remuneration or profit for participating in the management, conduct or operation of any game of bingo.
- (f) The aggregate value of all prizes including the retail value of all merchandise awarded or offered by any such organization on any single day to winners of games of call bingo shall not exceed \$1,200, and any prize awarded in cash of \$100 or more shall be paid by a check drawn on the bingo trust bank account of the licensee.
- (g) The total number of call bingo games managed, operated or conducted by any licensee in any one day shall not exceed 25 and not more than five of such games shall be jackpot or special games and not more than one licensee may conduct bingo games at a given location or registered premises in any one calendar day.
- (h) The prize awarded in any one regular call bingo game shall not exceed \$50 in cash or its equivalent and such prize in any one jackpot or special call bingo game shall not exceed \$500 in cash or its equivalent.
- (i) The retail value of any merchandise received by a winner of a bingo game shall be considered as the cash value for the purposes of determining the value of the prize.
- (j) The charge made for a single reusable card or equivalent number of disposable paper cards to play in call bingo games other than jackpot or special games shall not exceed \$1 and such reusable card or equivalent number of disposable paper cards shall be valid for all such regular call bingo games conducted or operated by the licensee on a particular day. The charge made for a single reusable card or disposable paper card to play in any single jackpot or special game shall not exceed \$1. Paper game program booklets with multiple bingo cards printed on the pages thereof are permitted so long as the charge made for a regular game program booklet does not exceed \$1, except that the charge for such game program booklet may be increased by an amount not exceeding \$1 for each single jackpot or special game in the game program booklet. The charge made for a single instant bingo ticket shall not exceed \$1.
- (k) Games of bingo shall not be managed, operated or conducted by any licensee on more than two calendar days in any one week.
- (l) All licenses issued under the provisions of this act shall be issued in the name of the organization licensed.
- (m) Each licensee shall keep a record of all bingo games managed, operated or conducted by it for a period of three years following the date the game is managed, operated or conducted.
- (n) No person under the age of 18 years shall participate in the management, operation or conduct of any game of bingo managed, operated or conducted under the provisions of this act and no licensee shall sell any instant bingo ticket to a person under the age of 18 years.
- (o) A lessor of premises used for the management, operation or conduct of bingo or a licensee may not advertise bingo games except to the extent and in the manner prescribed by the rules and regulations adopted by the secretary of revenue, and any advertisement of any bingo game by or on behalf of such lessor or licensee shall specify the

organization which is managing, operating or conducting the bingo game. For the purposes of this act and rules and regulations of the secretary of revenue, announcement of the cancellation of a game of bingo shall not be considered to be an advertisement.

(p) No lessor of premises used for the management, operation or conduct of any games of bingo or any licensee shall offer an opportunity to participate in a game of chance, drawing, contest, door prize, game, test of skill, lottery or any similar activity as an inducement to participate in games of bingo nor as a bingo prize or preliminary to the awarding of a bingo prize.

(q) No licensee shall manage, operate or conduct bingo on any leased premises or with leased equipment unless all of the terms and conditions of rental or use, including the rental of chairs, bingo equipment, tables, security guards, janitor service or any other services, are set forth in a lease submitted, approved and on file with the secretary of revenue.

(r) No premises shall be used for the management, operation or conduct of bingo games on more than three calendar days in any one week.

(s) No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated or conducted, whether or not the multiple premises have different addresses.

(t) No game of bingo shall be managed, operated or conducted on leased premises if at any time during the immediately preceding 44 hours the premises, or any leased premises within 1,000 feet of them, have been used for the management, operation or conduct of a game of bingo.

(u) Every licensee who has gross receipts of \$1,000 or more received from participation in games, admission fees or charges and from any other source directly related to the operation or conduct of any bingo games in any calendar month shall maintain a bingo trust bank account into which all such receipts are deposited daily and from which all payments are made relating to the management, operation or conduct of any bingo games, except payment of prizes of less than \$100. Having once established such bingo trust bank account, the licensee shall continue to make deposits of all receipts therein. Every licensee shall notify the secretary of revenue of the name of the bank in which the bingo trust bank account is maintained, together with the number and name of the account. Every licensee who maintains a bingo trust bank account shall maintain a complete record of all deposits and withdrawals from such bank account and the same shall be available to the secretary of revenue or the secretary's agents or investigators to audit at any reasonable time.

(v) The records required under subsection (u) are in addition to all other records required to be kept by the licensee by statute or rules and regulations. The records required by subsection (u) shall be maintained in the same place as all other records required to be kept by the licensee.

(w) No instant bingo ticket shall be sold by a licensee more than one hour prior to the start of the first game of call bingo for the day or after the termination of the last game of call bingo operated or conducted by the licensee for such calendar day.

(x) No licensee shall purchase disposable paper call bingo cards or instant bingo tickets from any person or entity other than a bingo card distributor registered by the secretary of revenue as provided in this act.

(y) All instant bingo tickets sold or distributed to licensees shall bear on the face thereof a unique serial number which shall not be repeated on the same manufacturer's form number less than every three years. All instant bingo tickets shall be sold or distributed in boxes, and each box shall be sealed by the manufacturer with a seal which includes a warning to the purchaser that the box may have been tampered with if the box was received by the purchaser with the seal broken. Each box of instant bingo tickets shall contain tickets printed in such a manner as to insure that at least 60% of the gross revenues generated by the ultimate sale of all tickets from such box shall be returned to the final purchasers of such tickets. No box of instant bingo tickets may be opened by a licensee unless all tickets contained in a previously opened box with the same form number have been sold.

(z) Each box of instant bingo tickets sold or distributed to licensees shall be accompanied by a flare which contains the following information: (1) The name of the game; (2) the manufacturer's name or logo; (3) the game form number; (4) the ticket count in the game; (5) the prize structure for the game, which includes the number of winning tickets by denomination and their respective winning symbol or number combinations; (6) the cost per ticket; (7) the game serial number; (8) the winning numbers or symbols for the top three winning tiers set out in such a manner that each prize may be marked off as the prize is won and awarded; (9) the business name of the bingo card distributor; and (10) the Kansas bingo license number of the licensee to which the game is sold.

History: L. 1975, ch. 491, § 6; L. 1977, ch. 341, § 8; L. 1980, ch. 324, § 1; L. 1982, ch. 425, § 3; L. 1984, ch. 366, § 3; L. 1984, ch. 365, § 1; L. 1989, ch. 304, § 1; Revived and amend., L. 1995, ch. 261, § 6; May 25.

79-4712a.

Chapter 79.--TAXATION

Article 47.--BINGO

79-4712a. Distributors of disposable bingo cards and instant bingo tickets; registration.

(a) No person or entity shall sell or otherwise distribute any disposable paper call bingo cards or instant bingo tickets to any organization licensed under the provisions of this act unless and until such person or entity has made application for and has been issued a bingo card distributor registration certificate by the secretary of revenue. Application for registration shall be accompanied by a fee in the amount of \$500 and shall be made upon forms prescribed by the secretary.

(b) Each bingo card distributor registration certificate shall expire at midnight on June 30 following its date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$500 and shall be made upon forms prescribed by the secretary.

(c) The secretary of revenue shall establish by rule and regulation reasonable criteria for approval of bingo card distributors. The secretary of revenue shall refuse to register a bingo card distributor if any owner, manager or employee thereof has, within five years prior to registration, been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling violation in this or any other jurisdiction.

(d) All bingo card distributors shall maintain for a period of not less than three years full and complete records of all disposable paper call bingo cards and instant bingo tickets sold to licensees within this state. Such records shall be made available for inspection by any authorized representative of the secretary of revenue.

History: L. 1995, ch. 261, § 7; May 25.

79-4715.

Chapter 79.--TAXATION

Article 47.--BINGO

79-4715. Reports to racing and gaming commission.

The director of alcoholic beverage control of the department of revenue shall submit to the Kansas racing and gaming commission semiannual activity reports concerning inspections and investigations of bingo operations in this state.

History: L. 1996, ch. 256, § 22; July 1.

79-4801.

Chapter 79.--TAXATION

Article 48.--STATE GAMING REVENUES

79-4801. State gaming revenues fund; authorized uses; limitation on amounts credited thereto; transfers to state general fund.

There is hereby created the state gaming revenues fund in the state treasury. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from the state gaming revenues fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be allocated and credited monthly to the funds and in the amounts specified by this act except that the total of the amounts credited to such funds in any one fiscal year pursuant to this act shall not exceed \$50,000,000. All amounts credited to such fund in any one fiscal year which are in excess of \$50,000,000 shall be transferred and credited to the state general fund on July 15, 1996, and June 25, 1997, and each year thereafter on June 25.

History: L. 1986, ch. 365, § 1; L. 1996, ch. 265, § 5; July 1.

79-4803.

Chapter 79.--TAXATION

Article 48.--STATE GAMING REVENUES

79-4803. State gaming revenues fund; transfers to juvenile detention facilities fund, administration and authorized uses; transfers to correctional institutions building fund.

(a) (1) An amount equal to 10% of all moneys credited to the state gaming revenues fund shall be transferred and credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09 and amendments thereto, to be appropriated by the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09 and amendments thereto; and

(2) an amount equal to 5% of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile detention facilities fund.

(b) There is hereby created in the state treasury the juvenile detention facilities fund which shall be administered by the commissioner of juvenile justice as approved by the Kansas advisory group on juvenile justice and delinquency prevention. All expenditures from the juvenile detention facilities fund shall be for the retirement of debt of facilities for the detention of juveniles; or for the construction, renovation, remodeling or operational costs of facilities for the detention of juveniles in accordance with a grant program which shall be established with grant criteria designed to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended.

"Operational costs" shall not be limited to any per capita reimbursement by the commissioner of juvenile justice for juveniles under the supervision and custody of the commissioner but shall include payments to counties as and for their costs of operating the facility. The commissioner of juvenile justice shall make grants of the moneys credited to the juvenile detention facilities fund for such purposes to counties in accordance with such grant program. All expenditures from the juvenile detention facilities fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of juvenile justice or the commissioner's designee.

History: L. 1986, ch. 365, § 3; L. 1990, ch. 150, § 11; L. 1994, ch. 351, § 3; L. 1997, ch. 156, § 113; July 1.

79-4804.

Chapter 79.--TAXATION

Article 48.--STATE GAMING REVENUES

79-4804. Same; transfers to state economic development initiatives fund; authorized allocations and uses, accounts created; investment by director of investments, disposition of proceeds; transfers of moneys to state water plan fund.

(a) An amount equal to 85% of all moneys credited to the state gaming revenues fund shall be transferred and credited to the state economic development initiatives fund. Expenditures from the state economic development initiatives fund shall be made in accordance with appropriations acts for the financing of such programs supporting and enhancing the existing economic foundation of the state and fostering growth through the expansion of current, and the establishment and attraction of new, commercial and industrial enterprises as provided by this section and as may be authorized by law and not less than 1/2 of such money shall be distributed equally among the congressional districts of the state. Except as provided by subsection (g), all moneys credited to the state economic development initiatives fund shall be credited within the fund, as provided by law, to an account or accounts of the fund which are created by this section.

(b) There is hereby created the Kansas capital formation account in the state economic development initiatives fund. All moneys credited to the Kansas capital formation account shall be used to provide, encourage and implement capital development and formation in Kansas.

(c) There is hereby created the Kansas economic development research and development account in the state economic development initiatives fund. All moneys credited to the Kansas economic development research and development account shall be used to promote, encourage and implement research and development programs and activities in Kansas and technical assistance funded through state educational institutions under the supervision and control of the state board of regents or other Kansas colleges and universities.

(d) There is hereby created the Kansas economic development endowment account in the state economic development initiatives fund. All moneys credited to the Kansas economic development endowment account shall be accumulated and invested as provided in this section to provide an ongoing source of funds which shall be used for economic development activities in Kansas, including but not limited to continuing appropriations or demand transfers for programs and projects which shall include, but are not limited to, specific community infrastructure projects in Kansas that stimulate economic growth.

(e) Except as provided in subsection (f), the director of investments may invest and reinvest moneys credited to the state economic development initiatives fund in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, in the pooled money investment portfolio. All moneys received as interest earned by the investment of the moneys credited to the state economic development initiatives fund shall be deposited in the state treasury and credited to the Kansas economic development endowment account of such fund.

(f) Moneys credited to the Kansas economic development endowment account of the state economic development initiatives fund may be invested in government guaranteed loans and debentures as provided by law in addition to the investments authorized by subsection (e) or in lieu of such investments. All moneys received as interest earned by the investment under this subsection of the moneys credited to the Kansas economic development endowment account shall be deposited in the state treasury and credited to the Kansas economic development endowment account of the state economic development initiatives fund.

(g) In each fiscal year, the director of accounts and reports shall make transfers in equal amounts on July 15 and January 15 which in the aggregate equal \$2,000,000 from the state economic development initiatives fund to the state water plan fund created by K.S.A. 82a-951, and amendments thereto. No other moneys credited to the state economic development initiatives fund shall be used for: (1) Water-related projects or programs, or related technical assistance; or (2) any other projects or programs, or related technical assistance, which meet one or more of the long-range goals, objectives and considerations set forth in the state water resource planning act.

History: L. 1986, ch. 365, § 4; L. 1987, ch. 295, § 16; L. 1988, ch. 392, § 3; L. 1989, ch. 48, § 102; L. 1989, ch. 186, § 32; L. 1992, ch. 262, § 17; L. 1994, ch. 351, § 4; L. 1996, ch. 254, § 32; May 23.

80-913.

Chapter 80.--TOWNSHIPS AND TOWNSHIP OFFICERS

Article 9.--PUBLIC PARKS AND CEMETERIES

80-913. Same; use of funds; annual report; unlawful acts.

The town board of such township shall have full authority and power to use the funds provided by the issue of bonds as hereinbefore conditioned, in purchasing, maintaining and improving the parks and cemeteries owned in such township by virtue of this act: *Provided*, The trustee of such township shall make an annual report on the condition of such park and cemetery; also a full statement of the expenditures and receipts made and received thereon: *Provided further*, That gambling, horse-racing and selling of intoxicating liquors are forever forbidden and prohibited on such grounds, or adjacent thereto.

History: L. 1887, ch. 235, § 9; March 15; R.S. 1923, 80-913.