

STATE OF KANSAS

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HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **House Substitute for Substitute for SB 84**, on page 23, in line 33, after the semicolon by inserting "(B) any greyhound race;"; on line 34, by striking "(B)" and inserting "(C)";

On page 29, in line 30 by striking "or greyhound";

On page 51, following line 11, by inserting:

"New Sec. 39. (a) The Kansas lottery shall not:

(1) Conduct live greyhound racing or any other form of dog racing at any racetrack facility;

(2) simulcast any greyhound races or any other form of dog races at any racetrack facility; or

(3) accept or otherwise facilitate or allow wagering on any greyhound races or any other form of dog races.

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

New Sec. 40. (a) No racetrack gaming facility manager or facility owner licensee shall:

(1) Conduct live greyhound racing or any other form of dog racing at any racetrack gaming facility;

(2) simulcast any greyhound races or any other form of dog races at any racetrack gaming facility; or

(3) accept or otherwise facilitate or allow wagering on any greyhound races or any

other form of dog races at any racetrack gaming facility.

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

New Sec. 41. (a) No facility manager licensee, facility owner licensee, organization licensee or fair association shall:

(1) Conduct live greyhound racing or any other form of dog racing at any racetrack facility;

(2) simulcast any greyhound races or any other form of dog races at any racetrack facility; or

(3) accept or otherwise facilitate or allow wagering on any greyhound races or any other form of dog races at any racetrack facility.

(b) The provisions of this section shall be a part of and supplemental to the Kansas parimutuel racing act.

New Sec. 42. (a) On July 1, 2021, the director of accounts and reports shall transfer all moneys in the Kansas greyhound breeding development fund to the state general fund. On July 1, 2021, all liabilities of the Kansas greyhound breeding development fund are hereby transferred to and imposed on the state general fund, and the Kansas greyhound breeding development fund is hereby abolished.

(b) On July 1, 2021, the director of accounts and reports shall transfer all moneys in the greyhound tourism fund to the state general fund. On July 1, 2021, all liabilities of the greyhound tourism fund are hereby transferred to and imposed on the state general fund, and the greyhound tourism fund is hereby abolished.

(c) On July 1, 2021, the director of accounts and reports shall transfer all moneys in the greyhound promotion and development fund to the state general fund. On July 1, 2021, all

liabilities of the greyhound promotion and development fund are hereby transferred to and imposed on the state general fund, and the greyhound promotion and development fund is hereby abolished.

(d) The provisions of this section shall be a part of and supplemental to the Kansas parimutuel racing act.

Sec. 43. K.S.A. 74-8746 is hereby amended to read as follows: 74-8746. (a) Except as provided in subsection (b):

(1) No electronic gaming machines shall be operated at a parimutuel licensee location in Crawford, Sedgwick or Wyandotte county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts ~~at such location at least 100 live greyhound races each calendar week for the number of weeks raced during calendar year 2003 with at least 13 live races conducted each day for not less than five days per week.~~

~~(2) No electronic gaming machines shall be operated at a parimutuel licensee location in Wyandotte county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts live horse racing programs for at least 60 days, with at least 10 live races conducted each program, and must offer and make a reasonable effort to conduct a minimum number of three live races restricted for quarter horses each day and seven live thoroughbred races each day, of which not less than two races each day shall be limited to registered Kansas-bred horses apportioned in the same ratio that live races are offered, except that the licensee shall not be required to conduct the second live race restricted to Kansas-bred horses unless there are at least seven qualified entries for such race, and with at least 100 live greyhound races each calendar week for at least the same number of weeks raced during calendar year 2003, with at least 13 live races conducted each day~~

for not less than five days per week.

~~(3) No electronic gaming machines shall be operated at a parimutuel licensee location in Crawford county unless, during the first full calendar year and each year thereafter in which electronic gaming machines are operated at such location, the parimutuel licensee conducts at such location at least 85 live greyhound races each calendar week for the number of weeks raced during calendar year 2003 in Sedgwick county, with at least 12 live races conducted each day for not less than five days per week.~~

(4)(2) If a parimutuel licensee has not held live races pursuant to a schedule approved by the Kansas racing and gaming commission in the preceding 12 months, the Kansas racing and gaming commission shall hold a hearing to determine the number of days of live racing required for the remaining days of the first calendar year of operation to qualify for operation of electronic gaming machines. At such hearing, the commission shall receive testimony and evidence from affected breed groups, the licensee and others, as the Kansas racing and gaming commission deems appropriate concerning the schedule of live race days. The operation of electronic gaming machines shall not commence more than 90 days prior to the start of live racing at such facility.

(b) The Kansas racing and gaming commission may not grant exceptions to the requirements of subsection (a) for a parimutuel licensee conducting live racing unless such exception is in the form of an agreement ~~which~~ that:

- (1) Is between the parimutuel licensee and the affected ~~recognized greyhound or~~ recognized horsemen's group, as defined in K.S.A. 74-8802, and amendments thereto;
- (2) has been approved by the appropriate official breed registering agencies; and
- (3) has been submitted to and approved by the commission.

In the case of emergencies, weather related issues or immediate circumstances beyond the control of the licensee, the Kansas racing and gaming commission may grant an exception.

Sec. 44. K.S.A. 74-8747 is hereby amended to read as follows: 74-8747. (a) Net electronic gaming machine income from a racetrack gaming facility shall be distributed as follows:

(1) To the racetrack gaming facility manager, an amount equal to ~~25%~~ 32% of net electronic gaming machine income;

(2) 7% of net electronic gaming machine income shall be credited to the live horse racing purse supplement fund established by K.S.A. 74-8767, and amendments thereto, except that the amount of net electronic gaming machine income credited to the fund during any fiscal year from electronic gaming machines at a racetrack gaming facility shall not exceed an amount equal to the average of \$3,750 per electronic gaming machine at each location and any moneys in excess of such amount shall be distributed between the state and the racetrack gaming facility manager in accordance with the racetrack gaming facility management contract;

~~(3) 7% of net electronic gaming machine income shall be credited to the live greyhound racing purse supplement fund established by K.S.A. 74-8767, and amendments thereto, except that the amount of net electronic gaming machine income credited to the fund during any fiscal year from electronic gaming machines at a racetrack gaming facility shall not exceed an amount equal to the average of \$3,750 per electronic gaming machine at each location and any moneys in excess of such amount shall be distributed between the state and the racetrack gaming facility manager in accordance with the racetrack gaming facility management contract;~~

~~(4)~~ (A) if the racetrack gaming facility is located in the northeast Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 3% of the ~~racetrack gaming facility revenues~~ net electronic gaming machine income to the county in which the racetrack gaming facility is located; or (B) if the racetrack gaming facility is located in the northeast Kansas gaming zone and is located within a city, include provision for payment of an

amount equal to 1.5% of the ~~racetrack gaming facility revenues~~ net electronic gaming machine income to the city in which the racetrack gaming facility is located and an amount equal to 1.5% of such ~~revenues~~ net electronic gaming machine income to the county in which such facility is located;

~~(5)~~(4) (A) if the racetrack gaming facility is located in the southeast or south central Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 2% of the ~~racetrack gaming facility revenues~~ net electronic gaming machine income to the county in which the racetrack gaming facility is located and an amount equal to 1% of such ~~revenues~~ net electronic gaming machine income to the other county in such zone; or (B) if the racetrack gaming facility is located in the southeast or south central Kansas gaming zone and is located within a city, provide for payment of an amount equal to 1% of the ~~racetrack gaming facility revenues~~ net electronic gaming machine income to the city in which the racetrack gaming facility is located, an amount equal to 1% of such ~~revenues~~ net electronic gaming machine income to the county in which such facility is located and an amount equal to 1% of such ~~revenues~~ net electronic gaming machine income to the other county in such zone;

~~(6)~~(5) 2% of net electronic gaming machine income shall be credited to the problem gambling and addictions grant fund established by K.S.A. 2020 Supp. 79-4805, and amendments thereto;

~~(7)~~(6) 1% of net electronic gaming machine income shall be credited to the Kansas horse fair racing benefit fund established by K.S.A. 74-8838, and amendments thereto;

~~(8)~~(7) 40% of net electronic gaming machine income shall be credited to the expanded lottery act revenues fund; and

~~(9)~~(8) 15% of electronic gaming machine income shall be used for gaming expenses, subject to agreement between the Kansas lottery and the racetrack gaming facility manager.

(b) A racetrack gaming facility management contract may include provisions for a parimutuel licensee or any other entity to pay the parimutuel licensee's expenses related to electronic gaming machines, as the executive director deems appropriate, subject to the requirements of subsection ~~(a)(9)~~ (a)(8).

Sec. 45. K.S.A. 74-8766 is hereby amended to read as follows: 74-8766. (a) There is hereby established in the state treasury the expanded lottery receipts fund. Separate accounts shall be maintained in such fund for receipt of moneys from each lottery gaming facility manager and racetrack gaming facility manager. All expenditures from the 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 for the purposes set forth in this act.

(b) All lottery gaming facility revenues from lottery gaming facilities and all net electronic gaming machine income from racetrack gaming facilities shall be paid daily and electronically to the executive director. The executive director shall remit all moneys received therefrom to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the respective account maintained for the lottery gaming facility manager or racetrack gaming facility manager in the expanded lottery receipts fund.

(c) The executive director shall certify weekly to the director of accounts and reports the percentages or amounts to be transferred from each account maintained in the expanded lottery receipts fund to the expanded lottery act revenues fund, the live horse racing supplement fund, ~~the live greyhound racing purse supplement fund~~ and the problem gambling and addictions grant fund, as provided by the lottery gaming facility management contract or K.S.A. 74-8747, and amendments thereto. Upon receipt of the certification, the director of accounts and reports shall transfer amounts from each such account in accordance with the certification of the

executive director. Once each month, the executive director shall cause amounts from each such account to be paid to cities, counties and lottery gaming facility managers in accordance with the lottery gaming facility management contract and to racetrack gaming facility managers in accordance with K.S.A. 74-8747, and amendments thereto.

(d) Amounts remaining in an account in the expanded lottery receipts fund after transfers and payments pursuant to subsection (c) shall be distributed in accordance with the related lottery gaming facility management contract or racetrack gaming facility management contract.

Sec. 46. K.S.A. 74-8767 is hereby amended to read as follows: 74-8767. (a) (1) There is hereby established in the state treasury the live horse racing purse supplement fund.

(2) Twenty-five percent of all moneys credited to the live horse racing purse supplement fund shall be transferred to the Kansas horse breeding development fund created pursuant to K.S.A. 74-8829, and amendments thereto. Two percent of the moneys credited to the live horse racing purse supplement fund shall be distributed to the official registering agency designated pursuant to K.S.A. 74-8830, and amendments thereto, to be used for horse registration, administration, development, representation and promotion of the Kansas horse racing and breeding industries. A complete financial accounting for the use of the funds received pursuant to this subsection shall be provided annually to the Kansas racing and gaming commission. Fifty percent of the moneys credited to the Kansas horse breeding development fund pursuant to this section shall be used as purse supplements for registered Kansas-bred foals and distributed based upon recommendation from the official horse breed registering agency and approval of the Kansas racing and gaming commission. The balance of funds credited to the Kansas horse breeding development fund pursuant to this section shall be used as breed awards for registered Kansas-bred broodmares and stallions. The Kansas racing and gaming commission

shall distribute such moneys credited to the Kansas horse breeding development fund in accordance with K.S.A. 74-8829, and amendments thereto.

(3) Based on the contribution to the Kansas horse racing and breeding industries in Kansas, the balance in the live horse race purse supplement fund shall be distributed in accordance with rules and regulations adopted by the Kansas racing and gaming commission with recommendations by the official registering agency designated pursuant to K.S.A. 74-8830, and amendments thereto.

~~(b) There is hereby established in the state treasury the live greyhound racing purse supplement fund. Moneys available in such fund shall be paid to the parimutuel licensees for distribution as purse supplements in accordance with rules and regulations of the Kansas racing and gaming commission. Such rules and regulations shall provide that 25% of the total amount credited to such fund shall be transferred to the credit of the Kansas greyhound breeding development fund, created pursuant to K.S.A. 74-8831, and amendments thereto. Moneys transferred into the Kansas greyhound breeding development fund pursuant to this section shall be used to supplement special stake races and enhance the amount per point paid to the owners of Kansas-whelped greyhounds which win live races at Kansas greyhound tracks in accordance with Kansas racing and gaming commission rules and regulations. Upon the recommendation of the official greyhound breed registry, the Kansas racing and gaming commission may transfer moneys from the Kansas greyhound breeding development fund to the live greyhound racing purse supplement fund. On July 1, 2021, the director of accounts and reports shall transfer all moneys in the live greyhound racing purse supplement fund to the state general fund. On July 1, 2021, all liabilities of the live greyhound racing purse supplement fund are hereby transferred to and imposed on the state general fund and the live greyhound racing purse supplement fund is hereby abolished.~~

(c) All purse supplements paid pursuant to this act shall be according to the point schedule in effect on January 1, 2003, at the respective parimutuel licensee locations. All purse supplements paid pursuant to this section shall be in addition to purses and supplements paid under K.S.A. 74-8801 et seq., and amendments thereto.

Sec. 47. K.S.A. 74-8801 is hereby amended to read as follows: 74-8801. K.S.A. 74-8801 through 74-8839, and amendments thereto, shall be known and may be cited as the Kansas parimutuel racing act and shall apply to all horse race meetings at which parimutuel wagering is used or intended to be used ~~and to all greyhound race meetings at which parimutuel wagering is used or intended to be used.~~

Sec. 48. K.S.A. 74-8802 is hereby amended to read as follows: 74-8802. As used in the Kansas parimutuel racing act unless the context otherwise requires:

(a) "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds:

- (1) A multiple of \$.10, for parimutuel pools from races conducted in this state; and
- (2) a multiple of such other number of cents as provided by law of the host jurisdiction, for interstate combined wagering pools.

(b) "Commission" means the Kansas racing and gaming commission created by this act.

(c) "Concessionaire licensee" means a person, partnership, corporation or association licensed by the commission to utilize a space or privilege within a racetrack facility to sell goods or services.

(d) "Contract" means an agreement, written or oral, between two or more persons, partnerships, corporations or associations, or any combination thereof, ~~which~~ that creates an obligation between the parties.

(e) "Crossover employment" means a situation in which an occupational licensee is

concurrently employed at the same racing facility by an organization licensee and a facility owner licensee or facility manager licensee.

~~(f)~~ "Dual racetrack facility" means a racetrack facility for the racing of both horses and greyhounds or two immediately adjacent racetrack facilities, owned by the same licensee, one for racing horses and one for racing greyhounds.

~~(g)~~(f) "Executive director" means the executive director of the commission.

~~(h)~~(g) "Facility manager licensee" means a person, partnership, corporation or association licensed by the commission and having a contract with an organization licensee to manage a racetrack facility.

~~(i)~~(h) "Facility owner licensee" means a person, partnership, corporation or association, or the state of Kansas or any political subdivision thereof, licensed by the commission to construct or own a racetrack facility but does not mean an organization licensee ~~which~~ that owns the racetrack facility in which it conducts horse ~~or greyhound~~ racing.

~~(j)~~(i) "Fair association" means an association organized pursuant to K.S.A. 2-125 et seq. and amendments thereto or a nonprofit association determined by the commission to be otherwise organized to conduct fair activities pursuant to findings of fact entered by the commission in a license order.

~~(k)~~(j) "Financial interest" means an interest that could result directly or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity or activity or as a result of a salary, gratuity or other compensation or remuneration from any person.

~~(l)~~ "Greyhound" means any greyhound breed of dog properly registered with the national greyhound association of Abilene, Kansas.

~~(m)~~(k) "Horsemen's association" means any association or corporation:

(1) All officers, directors, members and shareholders of which are licensed owners of horses or licensed trainers of horses, or both;

(2) ~~which that~~ is applying for or has been issued a facility owner license authorizing ownership of Eureka Downs, Anthony Downs or a racetrack facility on or adjacent to premises used by a fair association to conduct fair activities; and

(3) none of the officers, directors, members or shareholders of which holds another facility owner license or is an officer, director, member or shareholder of another facility owner licensee.

~~(n)~~(l) "Horsemen's nonprofit organization" means any nonprofit organization:

(1) All officers, directors, members or shareholders of which are licensed owners of horses or licensed trainers of horses, or both; and

(2) ~~which that~~ is applying for or has been issued an organization license authorizing the conduct of horse races at Eureka Downs, Anthony Downs or a racetrack facility on or adjacent to premises used by a fair association to conduct fair activities.

~~(o)~~(m) "Host facility" means the racetrack at which the race is run or, if the race is run in a jurisdiction~~which that~~ is not participating in the interstate combined wagering pool, the racetrack or other facility~~which that~~ is designated as the host facility.

~~(p)~~(n) "Host jurisdiction" means the jurisdiction where the host facility is located.

~~(q)~~(o) "Interstate combined wagering pool" means a parimutuel pool established in one jurisdiction~~which that~~ is combined with comparable parimutuel pools from one or more racing jurisdictions for the purpose of establishing the amount of money returned on a successful wager in the participating jurisdictions.

~~(r)~~(p) "Intertrack wagering" means wagering on a simulcast race at a licensed racetrack facility or at a facility~~which that~~ is licensed in its racing jurisdiction to conduct live races.

~~(s)~~(q) "Intrastate combined wagering pool" means a parimutuel pool ~~which that~~ is combined with comparable parimutuel pools from one or more racetrack facilities for the purpose of establishing the amount of money returned on a successful wager at the participating racetrack facilities.

~~(t)~~ "Kansas-whelped greyhound" means a greyhound whelped and raised in Kansas for the first six months of its life.

~~(u)~~(r) "Minus pool" means a parimutuel pool in which, after deducting the takeout, not enough money remains in the pool to pay the legally prescribed minimum return to those placing winning wagers, and in which the organization licensee would be required to pay the remaining amount due.

~~(v)~~(s) "Nonprofit organization" means:

(1) A corporation ~~which that~~ is incorporated in Kansas as a not-for-profit corporation pursuant to the Kansas general corporation code and the net earnings of which do not inure to the benefit of any shareholder, individual member or person; or

(2) a fair association.

~~(w)~~(t) "Occupation licensee" means a person licensed by the commission to perform an occupation or provide services ~~which that~~ the commission has identified as requiring a license pursuant to this act.

~~(x)~~(u) "Off-track wagering" means wagering on a simulcast race at a facility ~~which that~~ is not licensed in its jurisdiction to conduct live races.

~~(y)~~(v) "Organization licensee" means a nonprofit organization licensed by the commission to conduct races pursuant to this act and, if the license so provides, to construct or own a racetrack facility.

~~(z)~~(w) "Parimutuel pool" means the total money wagered by individuals on one or more

horses ~~or greyhounds~~ in a particular horse ~~or greyhound~~ race to win, place or show, or combinations thereof, as established by the commission, and, except in the case of an interstate or intrastate combined wagering pool, held by the organization licensee pursuant to the parimutuel system of wagering. There is a separate parimutuel pool for win, for place, for show and for each of the other forms of betting provided for by the rules and regulations of the commission.

~~(aa)~~(x) "Parimutuel wagering" means a form of wagering on the outcome of horse ~~and greyhound~~ races in which those who wager purchase tickets of various denominations on one or more horses ~~or greyhounds~~ and all wagers for each race are pooled and the winning ticket holders are paid prizes from such pool in amounts proportional to the total receipts in the pool.

~~(bb)~~(y) "Race meeting" means one or more periods of racing days during a calendar year designated by the commission for which an organization licensee has been approved by the commission to hold live or simulcast horse ~~or greyhound~~ races at which parimutuel wagering is conducted, including such additional time as designated by the commission for the conduct of official business before and after the races.

~~(ee)~~(z) "Racetrack facility" means a racetrack within Kansas used for the racing of horses ~~or greyhounds, or both~~, including the track surface, grandstands, clubhouse, all animal housing and handling areas, other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials and such additional areas as designated by the commission.

~~(dd)~~(aa) "Racing jurisdiction" or "jurisdiction" means a governmental authority ~~which~~ that is responsible for the regulation of live or simulcast racing in its jurisdiction.

~~(ee)~~(bb) "Racing or wagering equipment or services licensee" means any person, partnership, corporation or association licensed by the commission to provide integral racing or

wagering equipment or services, as designated by the commission, to an organization licensee.

~~(ff)~~ "Recognized greyhound owners' group" means the duly recognized group elected in accordance with rules and regulations of the commission by a majority of the Kansas licensed greyhound owners at the racetrack facility voting in the election. The commission may designate an organization such as the national greyhound association of Abilene, Kansas, to conduct the election.

~~(gg)~~(cc) "Recognized horsemen's group" means the duly recognized group, representing the breeds of horses running at a racetrack facility, elected in accordance with rules and regulations of the commission by a majority of the licensed owners and trainers at the racetrack facility voting in the election. If the licensee does not have a recognized horsemen's group, the commission shall designate as the recognized horsemen's group one that serves another organization licensee, but not one that serves a fair association organization licensee.

~~(hh)~~(dd) "Simulcast" means a live audio-visual broadcast of an actual horse ~~or~~ greyhound race at the time it is run.

~~(ii)~~(ee) "Takeout" means the total amount of money withheld from each parimutuel pool for the payment of purses, taxes and the share to be kept by the organization licensee. Takeout does not include the breakage. The balance of each pool less the breakage is distributed to the holders of winning parimutuel tickets.

Sec. 49. K.S.A. 74-8804 is hereby amended to read as follows: 74-8804. (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 presiding officers 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~~ that, 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 that~~ 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 that~~ 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 that~~ 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 that~~ 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.

Sec. 50. K.S.A. 74-8805 is hereby amended to read as follows: 74-8805. (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 commission, to serve at the pleasure of the governor and under the direction and supervision of the commission. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as executive director shall exercise any power, duty or function as executive director until confirmed by the senate. 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) receive such compensation as determined by the governor, subject to the limitations of appropriations therefor;

(D) be a citizen of the United States and an actual resident of Kansas during employment by the commission;

(E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and

(F) have familiarity with the horse ~~and dog racing industries~~ racing industry sufficient

to fulfill the duties of the office of executive director.

(3) The executive director shall:

(A) Recommend to the commission the number and qualifications of employees necessary to implement and enforce the provisions of this act;

(B) employ persons for those positions approved by the commission, subject to the limitations of appropriations therefor; and

(C) perform such other duties as directed by the commission.

(b) (1) The executive director shall appoint an inspector of parimutuels to serve at the pleasure of the executive director. Before appointing any person as inspector of parimutuels, 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 inspector of parimutuels shall:

(A) Be in the unclassified service under the Kansas civil service act;

(B) devote full time to the inspector'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 inspector of parimutuels;

(E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and

(F) be a certified public accountant with at least three years of auditing experience.

(3) The inspector of parimutuels shall:

(A) Inspect and audit the conduct of parimutuel wagering by organization licensees, including the equipment and facilities used and procedures followed;

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

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

(c) (1) The executive director shall appoint a director of security to serve at the pleasure of the executive director. Before appointing any person as director of security, 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 security shall:

(A) Be in the unclassified service under the Kansas civil service act;

(B) devote full time to the security 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 security;

(E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and

(F) be 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 security shall:

(A) Conduct investigations relating to compliance with the provisions of this act and rules and regulations of the commission;

(B) recommend proper security measures to organization licensees;

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

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

(d) (1) The executive director may appoint a director of racing operations to serve at the pleasure of the executive director. Before appointing any person as director of racing operations, 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 racing operations 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 racing operations;

(E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and

(F) have a minimum of five years' experience in racing operations.

(3) The director of racing operations shall:

(A) Supervise racing operations, including stewards ~~and racing judges~~;

(B) be responsible for training and education of stewards ~~and racing judges~~;

(C) advise the commission on necessary or desirable changes in rules and regulations relating to conduct of races;

(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.

(e) The commission may appoint an advisory committee of persons knowledgeable in the horse ~~and greyhound~~ breeding and racing industries to provide information and recommendations to the commission regarding the administration of this act. Members of such advisory committee shall serve without compensation or reimbursement of expenses.

(f) Except as otherwise provided by this act, all employees of the commission shall be in the classified service under the Kansas civil service act.

(g) No employee of the commission shall have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission. Before employing any person, the commission shall cause a criminal history record check of the person to be conducted.

(h) The commission shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of a person before employing the person in any of the following positions:

- (1) Deputy director;
- (2) accountant;
- (3) computer systems analyst;
- (4) legal assistant;
- (5) auditor;
- ~~(6) racing judge;~~
- ~~(7)~~(6) steward;
- ~~(8)~~(7) enforcement agent;
- ~~(9)~~(8) office supervisor;
- ~~(10)~~(9) human resource manager;

~~(11)~~(10) office specialist; or

~~(12)~~(11) any other sensitive position, as determined by the commission.

Sec. 51. K.S.A. 74-8806 is hereby amended to read as follows: 74-8806. (a) The commission shall employ an animal health officer and such assistant animal health officers as needed to serve at the pleasure of the commission. Before employing any person as the animal health officer, the commission shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(b) The animal health officer and assistant animal health officers shall:

(1) Be doctors of veterinary medicine;

(2) be in the unclassified service under the Kansas civil service act;

(3) receive such compensation as determined by the commission, subject to the limitations of appropriations therefor; and

(4) while employed by the commission, devote full time to the duties of the office.

(c) The animal health officer shall:

(1) Supervise the formulation, administration and evaluation of all medical tests the commission's rules and regulations require or authorize;

(2) advise the commission on all aspects of veterinary medicine relating to its powers and duties;

(3) supervise all personnel involved in conducting physical examinations and medical testing of racing animals, as directed by the executive director; and

(4) perform such other duties as directed by the commission.

(d) The assistant animal health officers shall:

(1) Conduct physical examinations and medical tests of racing animals as prescribed by the commission;

(2) administer emergency treatment of racing animals at race meetings as authorized by the owners of such animals or their agents; and

(3) perform such other duties as directed by the commission.

(e) The animal health officer or an assistant animal health officer may possess and administer drugs and medications to horses ~~and greyhounds~~ within a racetrack facility as authorized by rules and regulations of the commission.

(f) The commission may require an organization licensee to reimburse the commission for services performed by assistant animal health officers at race meetings conducted by the organization licensee.

(g) The commission may obtain medical services as required by contract with an institution ~~which~~ that teaches animal health sciences within the state.

(h) The commission shall contract with one or more laboratory facilities for the analysis of samples taken for the purpose of enforcing compliance with K.S.A. 74-8811, and amendments thereto. In entering into any contract under this subsection, the commission shall give preference to laboratory facilities located in this state.

Sec. 52. K.S.A. 74-8808 is hereby amended to read as follows: 74-8808. Each member, employee or appointee of the commission, including stewards ~~and racing judges~~, shall furnish bond or other good and sufficient security in an amount and upon such terms as established by the state committee on surety bonds and insurance pursuant to K.S.A. 75-4101 et seq., and amendments thereto. The cost of any such bonds shall be paid by the commission.

Sec. 53. K.S.A. 74-8810 is hereby amended to read as follows: 74-8810. (a) It is a class A nonperson misdemeanor for any person to have a financial interest, directly or indirectly, in any racetrack facility within the state of Kansas or in any host facility for a simulcast race displayed in this state:

(1) While such person is executive director or a member of the commission or during the five years immediately following such person's term as executive director or member of the commission; or

(2) while such person is an officer, director or member of an organization licensee, other than a fair association or horsemen's nonprofit organization, or during the five years immediately following the time such person is an officer, director or member of such an organization licensee.

(b) It is a class A nonperson misdemeanor for any person to hold any paid position with any facility manager licensee, facility owner licensee or organization licensee or to have any financial interest, directly or indirectly, in any racetrack facility within the state of Kansas:

(1) While such person is a member of the Kansas legislature or during the five years immediately following such person's term as such member; or

(2) if such person is:

(A) The spouse of a member of the Kansas legislature;

(B) the spouse of a person who has been a member of the Kansas legislature during the preceding five years; or

(C) one of the following blood-relatives, half-relatives or step-relatives of a member of the Kansas legislature or a person who has been a member of the Kansas legislature during the preceding five years: Parent, grandparent, brother, sister, child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law.

(c) It is a class A nonperson misdemeanor for any member, employee or appointee of the commission, including stewards and racing judges, to knowingly:

(1) Participate in the operation of or have a financial interest in any business ~~which~~ that has been issued a concessionaire license, racing or wagering equipment or services license,

facility owner license or facility manager license, or any business ~~which that~~ sells goods or services to an organization licensee;

(2) participate directly or indirectly as an owner, owner-trainer or trainer of a horse ~~or greyhound~~, or as a jockey of a horse, entered in a race meeting conducted in this state;

(3) place a wager on an entry in a horse ~~or greyhound~~ race conducted by an organization licensee; or

(4) accept any compensation, gift, loan, entertainment, favor or service from any licensee, except such suitable facilities and services within a racetrack facility operated by an organization licensee as may be required to facilitate the performance of the member's, employee's or appointee's official duties.

~~(d)(1) Except as provided in paragraph (2);~~ It is a class A nonperson misdemeanor for any member, employee or appointee of the commission, or any spouse, parent, grandparent, brother, sister, child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law thereof, to:

~~(A)(1)~~ Hold any license issued by the ~~(1)~~ commission, except that a steward ~~or racing judge~~ shall hold an occupation license to be such a steward ~~or judge~~; or

~~(B)(2)~~ enter into any business dealing, venture or contract with an owner or lessee of a racetrack facility in Kansas.

~~(2) This subsection shall not apply to any racing judge holding an occupation license, if such racing judge is employed at a racetrack facility and such racing judge's relative, as listed above, is a licensed owner, owner-trainer or trainer of a greyhound that races at a different racetrack facility.~~

(e) It is a class A nonperson misdemeanor for any officer, director or member of an organization licensee, other than a fair association or horsemen's nonprofit organization, to:

(1) Receive, for duties performed as an officer or director of such licensee, any compensation or reimbursement or payment of expenses in excess of the amounts provided by K.S.A. 75-3223, and amendments thereto, for board members' compensation, mileage and expenses; or

(2) enter into any business dealing, venture or contract with the organization licensee or, other than in the capacity of an officer or director of the organization licensee, with a facility owner licensee, facility manager licensee, racing or wagering equipment or services license or concessionaire licensee, or with any host facility for a simulcast race displayed in this state.

(f) It is a class A nonperson misdemeanor for any facility owner licensee or facility manager licensee, other than a horsemen's association, or any officer, director, employee, stockholder or shareholder thereof or any person having an ownership interest therein, to participate directly or indirectly as an owner, owner-trainer or trainer of a horse ~~or greyhound~~, or as a jockey of a horse, entered in a live race conducted in this state.

(g) It is a class A nonperson misdemeanor for any licensee of the commission, or any person who is an officer, director, member or employee of a licensee, to place a wager at a racetrack facility located in Kansas on an entry in a horse ~~or greyhound~~ race if:

(1) The commission has by rules and regulations designated such person's position as a position ~~which~~ that could influence the outcome of such race or the parimutuel wagering thereon; and

(2) such race is conducted at or simulcast to the racetrack facility where the licensee is authorized to engage in licensed activities.

~~(h) It is a class B nonperson misdemeanor for any person to use any animal or fowl in the training or racing of racing greyhounds.~~

~~(i)~~(h) It is a class A nonperson misdemeanor for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person to be under 21 years of age, upon conviction of the first offense;

(2) accept, transmit or deliver, from a person outside a racetrack facility, anything of value to be wagered in any parimutuel system of wagering within a racetrack facility, upon conviction of the first offense;

(3) administer or conspire to administer any drug or medication to a horse ~~or greyhound~~ within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the first offense;

(4) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse ~~or greyhound~~ in violation of rules and regulations of the commission, upon conviction of the first offense;

(5) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses ~~or greyhounds~~ in violation of rules and regulations of the commission, upon conviction of the first offense;

(6) enter any horse ~~or greyhound~~ in any race knowing such horse ~~or greyhound~~ to be ineligible to compete in such race pursuant to K.S.A. 74-8812, and amendments thereto; or

(7) prepare or cause to be prepared an application for registration of a horse pursuant to K.S.A. 74-8830, and amendments thereto, knowing that such application contains false information.

~~(j)~~(i) It is a severity level 8, nonperson felony for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person to be under 21 years of age, upon conviction of the second or a subsequent offense;

(2) accept, transmit or deliver, from any person outside a racetrack facility, anything of value to be wagered in any parimutuel system of wagering within a racetrack facility, upon the

second or a subsequent conviction;

(3) conduct or assist in the conduct of a horse ~~or greyhound~~ race, or the display of a simulcast race, where the parimutuel system of wagering is used or is intended to be used and where no license has been issued to an organization to conduct or simulcast such race;

(4) enter any horse ~~or greyhound~~ in any race conducted by an organization licensee knowing that the class or grade in which such horse ~~or greyhound~~ is entered is not the true class or grade or knowing that the name under which such horse ~~or greyhound~~ is entered is not the name under which such horse ~~or greyhound~~ has been registered and has publicly performed;

(5) use or conspire to use any device, other than an ordinary whip for horses ~~or a mechanical lure for greyhounds~~, for the purpose of affecting the speed of any horse ~~or greyhound~~ at any time during a race conducted by an organization licensee;

(6) possess or conspire to possess, within the confines of a racetrack facility, any device, other than an ordinary whip for horses ~~or a mechanical lure for greyhounds~~, designed or intended to affect the speed of a horse ~~or greyhound~~;

(7) administer or conspire to administer any drug or medication to a horse ~~or greyhound~~ within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(8) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse ~~or greyhound~~ in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(9) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses ~~or greyhounds~~ in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(10) sponge the nostrils or windpipe of a horse for the purpose of stimulating or

depressing such horse or affecting its speed at any time during a race meeting conducted by an organization licensee;

(11) alter or attempt to alter the natural outcome of any race conducted by, or any simulcast race displayed by, an organization licensee or transmit or receive an altered race or delayed broadcast race if parimutuel wagering is conducted or solicited after off time of the race;

(12) influence or attempt to influence, by the payment or promise of payment of money or other valuable consideration, any person to alter the natural outcome of any race conducted by, or any simulcast race displayed by, an organization licensee;

(13) influence or attempt to influence any member, employee or appointee of the commission, by the payment or promise of payment of money or other valuable consideration, in the performance of any official duty of that member, employee or appointee;

(14) fail to report to the commission or to one of its employees or appointees knowledge of any violation of this act by another person for the purpose of stimulating or depressing any horse ~~or greyhound~~, or affecting its speed, at any time during any race conducted by an organization licensee;

(15) commit any of the following acts with respect to the prior racing record, pedigree, identity or ownership of a registered horse ~~or greyhound~~ in any matter related to the breeding, buying, selling or racing of the animal:

(A) Falsify, conceal or cover up, by any trick, scheme or device, a material fact;

(B) make any false, fictitious or fraudulent statement or representation; or

(C) make or use any false writing or document knowing that it contains any false, fictitious or fraudulent statement or entry; or

(16) pass or attempt to pass, cash or attempt to cash any altered or forged parimutuel ticket knowing it to have been altered or forged.

~~(k)~~(j) (1) No person less than 21 years of age shall purchase a parimutuel ticket or an interest in such a ticket.

(2) Any person less than 18 years of age who violates this subsection shall be subject to adjudication as a juvenile offender pursuant to the revised Kansas juvenile justice code.

(3) Violation of this subsection by a person 18 or more years of age is a class A misdemeanor upon conviction of the first offense and a severity level 8, nonperson felony upon conviction of the second or a subsequent offense.

Sec. 54. K.S.A. 74-8811 is hereby amended to read as follows: 74-8811. The commission shall adopt rules and regulations establishing those drugs and medications, and the levels thereof, ~~which that~~ are allowable in the blood or urine of any horse ~~or greyhound~~ when tested either just prior to or immediately following participation in any race conducted by an organization licensee. Animals in violation of such rules and regulations may be disqualified from the race in which the animal is entered or has participated on the day that such test was conducted.

Sec. 55. K.S.A. 74-8812 is hereby amended to read as follows: 74-8812. (a) Horses shall not compete in any race meeting before reaching the age of two years. A horse's age shall be determined beginning on the first day of January in the year in which the horse is foaled.

~~(b) Greyhounds shall not compete in any race meeting before reaching the age of 15 months.~~

~~(e)~~—No horse shall compete in any race limited to Kansas-bred horses unless such horse is registered pursuant to K.S.A. 74-8830, and amendments thereto. The commission may prescribe such forms as necessary to determine the eligibility of horses entered in such a race.

~~(d)~~(c) No horse ~~or greyhound~~ owned by a stable, ~~kenmel~~ or other entity shall compete in any race meeting unless the name of the stable, ~~kenmel~~ or entity is registered upon forms

prescribed and furnished by the commission and the appropriate registration fee paid. The commission shall establish the amount of such registration fees, but no such fee shall exceed \$200 a year.

Sec. 56. K.S.A. 74-8813 is hereby amended to read as follows: 74-8813. (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(a)(1) or (a)(2), 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 remit any deposit received pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of 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 that~~, 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~~ that 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~~ that 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~~ that:

(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;<sub>2</sub>

(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~~ racing 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~~ industry 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 (e)(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)(s)~~ 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 Kansas judicial review act.

~~(v)(t)~~ 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 Kansas judicial review act, 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)(u)~~ The commission may adopt rules and regulations regulating crossover employment between organization licensees and facility manager licensees and facility owner

licensees.

Sec. 57. K.S.A. 74-8814 is hereby amended to read as follows: 74-8814. (a) Subject to the provisions of subsection (b), the commission shall establish by rules and regulations an application fee not exceeding \$500 for any of the following which applies for an organization license and the license fee for any of the following granted an organization license shall be \$100 for each day of racing approved by the commission:

(1) Any fair association ~~other than, except~~ the Greenwood county and Anthony fair associations, any horsemen's nonprofit organization ~~or the national greyhound association of Abilene, Kansas~~, if:

(A) Such association conducts not more than two race meetings each year;

(B) such race meets are held within the boundaries of the county where the applicant is located; and

(C) such race meetings are held for a total of not more than 40 days per year; or

(2) the Greenwood county fair association or a horsemen's nonprofit organization, with respect to race meetings conducted by such association or organization at Eureka Downs, or the Anthony fair association or a horsemen's nonprofit organization, with respect to race meetings conducted by such association or organization at Anthony Downs, for which the number of race meetings and days, and the dates thereof, shall be specified by the commission.

(b) The commission shall adopt rules and regulations providing for simplified and less costly procedures and requirements for fair associations and horsemen's nonprofit organizations applying for or holding a license to conduct race meetings.

(c) The Kansas racing and gaming commission shall investigate:

(1) The president, vice-president, secretary and treasurer of a fair association, and such other members as the commission considers necessary, to determine eligibility for an

organization license;

(2) each officer and each director of a nonprofit horsemen's organization, and such other members or shareholders as the commission considers necessary to determine eligibility for an organization license.

(d) Except as otherwise provided by this section, all applicants for organization licenses for the conduct of race meetings pursuant to the provisions of this section shall be required to comply with all the provisions of K.S.A. 74-8813, and amendments thereto.

Sec. 58. K.S.A. 74-8815 is hereby amended to read as follows: 74-8815. (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~~ that 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 remit any deposit received pursuant to this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of 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 (c), 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)(l)~~ 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 Kansas judicial review act.

~~(n)(m)~~ 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 Kansas judicial review act, 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.

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

Sec. 59. K.S.A. 74-8816 is hereby amended to read as follows: 74-8816. (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, ~~racetrack 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~~ such fingerprinting is 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 a presiding officer from the office of administrative hearings 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(b) and subsection (b)(3) of K.S.A. 77-530(b)(3)~~, and amendments thereto, any order entered by a presiding officer 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.

Sec. 60. K.S.A. 74-8818 is hereby amended to read as follows: 74-8818. (a) The commission shall appoint at least three individuals to serve as stewards ~~or racing judges~~ at each horse ~~or greyhound~~ race meeting, but not more than three such stewards ~~or judges~~ shall be on duty at any one time at any racing performance. One shall be designated as the chief steward ~~or chief racing judge~~ and the other two as associate stewards ~~or associate racing judges~~. Such stewards ~~and racing judges~~ shall be employees of the commission who shall serve at the pleasure of the commission under the supervision of the executive director and shall be in the unclassified service under the Kansas civil service act. The commission also may contract with individuals to serve as stewards ~~or racing judges~~ as needed in the absence of a full-time steward ~~or racing judge~~. The compensation of the stewards ~~and racing judges~~ shall be an amount fixed by the commission and shall be paid by the commission. The commission may require an organization

licensee to reimburse the commission for compensation paid to the stewards ~~and racing judges~~ for ~~their~~ services performed by such stewards at race meetings conducted by that organization licensee. Any moneys received by the commission for that purpose shall be remitted by the commission to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the racing reimbursable expense fund created by K.S.A. 74-8827, and amendments thereto. All other racing officials at a race meeting shall be approved by the commission and compensated by the organization licensee. The stewards, ~~racing judges~~ and other racing officials shall enforce the civil provisions of this act and any rules and regulations of the commission and shall submit written reports of the activities and conduct of the race meetings to the commission.

(b) Each steward ~~or racing judge~~ shall be required to obtain an occupation license from the commission pursuant to K.S.A. 74-8816, and amendments thereto, prior to performing any duties as a steward ~~or a judge~~, except that an unlicensed employee of the commission may serve as a steward ~~or racing judge~~ on a temporary basis if the employee has had the same criminal history record check, background investigation and training, and has passed the same examination, as required for other stewards ~~and racing judges~~.

(c) The commission shall require each applicant for a license as a steward ~~or racing judge~~ to pass an examination on matters relating to the duties of stewards ~~or racing judges~~ unless the applicant submits proof satisfactory to the commission that the applicant has passed an examination in another jurisdiction ~~which that~~ the commission finds equivalent to the examination given by the commission. Examinations shall be held at such times and places as determined by the commission. Notice of the times and places of the examinations shall be given as determined by the commission. The commission shall prepare both written and oral

examinations to be taken by persons applying for licensure as stewards ~~or racing judges~~, requesting and taking into consideration suggestions from representatives of horsemen and horsewomen, ~~greyhound owners~~, organization licensees, stewards, ~~racing judges~~ and other interested and knowledgeable parties as to the content thereof.

(d) The commission may examine any person who:

(1) Has not been convicted of a crime involving moral turpitude or of a felony;

(2) has completed an accredited ~~senior~~ high school or its equivalent;

(3) has been given a physical examination by a licensed physician within 60 days prior to the date of application for the steward's ~~or racing judge's~~ examination, indicating at least 20/20 vision or vision corrected to at least 20/20, and normal hearing ability;

(4) has:

(A) At least five years' experience in the horse ~~or greyhound~~ racing industry as a licensed trainer or jockey;

(B) at least 10 years' experience in the horse ~~or greyhound~~ racing industry as a licensed owner whose experience, knowledge, ability and integrity relative to the industry are known to the commission;

(C) at least three years' experience as a licensed racing official, racing secretary, assistant racing secretary or director of racing; or

(D) experience in the racing industry of a character and for a length of time sufficient, in the opinion of the commission, to be substantially equivalent to the experience requirement of ~~subsection (d)(4)~~ subparagraph (A), (B) or (C).

(e) For the purpose of subsection (d)(4), one year's experience shall mean at least 100 days actually worked within one calendar year. An original license for a steward ~~or racing judge~~ issued pursuant to the provisions of this act shall be issued for the calendar year in which it is

issued and shall be renewable for a period not to exceed three years as established by rules and regulations of the commission. The commission shall establish a license fee schedule consistent with the different periods for which such licenses may be granted. The license shall be valid at all race meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of such period.

Sec. 61. K.S.A. 74-8819 is hereby amended to read as follows: 74-8819. (a) Organizations licensed pursuant to K.S.A. 74-8813 or 74-8814, and amendments thereto, may conduct parimutuel wagering on the results of horse ~~and greyhound~~ races held on dates and at racetrack facilities approved by the commission and on simulcast races as provided by K.S.A. 74-8836, and amendments thereto. All persons participating in such wagering shall be present within the confines of the approved racetrack facility.

(b) Organization licensees shall issue a ticket to each person placing a wager, which ticket shall show the date and number of the race, the amount wagered and the number of the horse ~~or greyhound~~ selected by the person. The licensee may receive wagers on horses ~~or greyhounds~~ to finish first, second, third, fourth or any combination thereof within the same race or among two or more live races conducted or simulcast races displayed on the same day at the same racetrack facility, as authorized by the commission.

(c) After wagering has been closed for each live race conducted by the licensee, the organization licensee may deduct an amount not exceeding 18% of the total wagered in each parimutuel pool and the balance, less the breakage, shall be paid to holders of winning tickets for that pool in accordance with procedures authorized by the commission. The commission may authorize a higher amount not exceeding 25% to be deducted from the total wagered in parimutuel pools for multiple and exotic bets.

(d) From the amount deducted as provided in subsection (c), the organization licensee

shall pay the purses as provided in K.S.A. 74-8820, and amendments thereto, and the tax as specified in K.S.A. 74-8823, and amendments thereto. The balance of the amount deducted shall be used for the purposes of the organization licensee as such purposes have been represented to the commission.

(e) The provisions of K.S.A. 74-8836, and amendments thereto, shall govern takeout and its distribution in the case of simulcast races displayed by an organization licensee.

(f) No organization licensee shall loan money or any other thing of value to any person for the purpose of permitting that person to wager on any race.

(g) All parimutuel tellers and clerks shall be employees of the organization licensee approved by the commission to conduct the parimutuel wagering at a race meeting.

Sec. 62. K.S.A. 74-8820 is hereby amended to read as follows: 74-8820. (a) An organization licensee shall be required to pay a minimum purse equal to at least ~~4/18 of the total takeout on all parimutuel pools from live greyhound races conducted by the licensee, computed weekly, and~~  $\frac{6}{18}$  of the total takeout on all parimutuel pools from live horse races conducted by the licensee, computed for the entire race meeting. Moneys paid for purses or stakes from breakage, from the Kansas horse breeding development fund, ~~from the Kansas greyhound breeding development fund~~ or from owners' payments in the form of nominations, entry fees, stakes payments or other payments by owners shall not be considered in calculating the minimum purse requirements of this section. The commission shall approve the amount of minimum purse ~~which that~~ may be paid in stakes races during each race meeting. None of the minimum purse shall be used for any other purpose except as specified by this section.

(b) Nothing contained in this section shall be construed to limit the maximum purse to be paid.

~~(c) Purses shall be paid directly to the owner of a greyhound or, if a greyhound is~~

~~leased, the purse shall be paid directly to the lessor and lessee as agreed in a written lease agreement on file with the organization licensee.~~

Sec. 63. K.S.A. 74-8821 is hereby amended to read as follows: 74-8821. (a) The breakage deducted from the amounts paid to winning ticket holders for each parimutuel pool shall be computed by the organization licensee and disbursed as set forth in this section. An accounting of the amount and disposition of the breakage shall be made by each organization licensee as directed by the commission. Except as otherwise provided by K.S.A. 74-8836, and amendments thereto, the breakage on minus pools shall be calculated in multiples of \$.05 rather than \$.10.

(b) All breakage proceeds from parimutuel wagering conducted by the organization licensee on live horse races conducted by the licensee shall be remitted by the licensee to the commission not later than the 15<sup>th</sup> day of the month following the race from which the breakage is derived. The commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto.

~~(c) Except as provided by subsection (e), all breakage proceeds from parimutuel wagering conducted by the organization licensee on live greyhound races conducted by the licensee shall be distributed by the licensee not later than the 15<sup>th</sup> day of the month following the race from which the breakage is derived as follows:~~

~~(1) An amount equal to 50% of the breakage shall be used at racetrack facilities where derived to supplement open stakes races as approved by the commission; and~~

~~(2) an amount equal to 50% of the breakage shall be paid as purses directly to the~~

~~breeders of Kansas-whelped greyhounds pursuant to rules and regulations of the commission.~~

(d)—All breakage proceeds from parimutuel wagering conducted by a simulcast licensee on simulcast races displayed by the licensee shall be distributed as provided by K.S.A. 74-8836, and amendments thereto.

~~(e) If a racetrack facility closes or discontinues conducting races and there are undistributed breakage proceeds from parimutuel wagering conducted by the organization licensee on live greyhound races, the licensee shall distribute such proceeds to charitable organizations who apply to the organizational licensee. Such proceeds shall be distributed in accordance with the licensee's charitable distribution guidelines. Within 30 days of such distribution, the licensee shall file a report with the commission disclosing the amounts of the distributions, the names of the distributees and the date on which the distributions were made.~~

~~The provisions of this subsection shall apply to any racetrack facility conducting races on or before October 31, 2001.~~

Sec. 64. K.S.A. 74-8822 is hereby amended to read as follows: 74-8822. (a) Any person who claims to be entitled to any part of a parimutuel pool conducted by an organization licensee and who fails to claim the money due such person prior to the completion of the race meeting at which the pool was formed may file with the organization licensee within 60 days after the close of the race meeting:

(1) A verified claim on a form prescribed and furnished by the commission, setting forth such information as necessary to identify the particular pool and the amount claimed therefrom; and

(2) a substantial portion of the parimutuel ticket upon which the claim is based, sufficient to identify:

(A) The particular racetrack, race and horse ~~or greyhound~~ involved;

- (B) the amount wagered; and
- (C) whether the ticket was a win, place or show ticket.

(b) Upon proper application by the claimant or by the organization licensee, the commission shall hear any disputed claim filed in accordance with subsection (a) and shall consider the proof offered in its support. Unless the claimant satisfactorily establishes the right to participate in the pool, the claim shall be rejected. If the claim is allowed, the organization licensee shall pay the amount of the claim to the claimant upon order of the commission.

(c) All unclaimed ticket proceeds from parimutuel wagering conducted by the organization licensee on live horse race meetings conducted by the licensee shall be remitted by the licensee to the commission on the 61st day after the close of each race meeting. The commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto.

~~(d) All unclaimed ticket proceeds from parimutuel wagering conducted by the organization licensee on live greyhound race meetings conducted by the licensee shall be remitted by the licensee to the commission on the 61st day after the close of each race meeting. The commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas greyhound breeding development fund created by K.S.A. 74-8831, and amendments thereto.~~

~~(e)~~ All unclaimed ticket proceeds from parimutuel wagering conducted by a simulcasting licensee on simulcast races displayed by the licensee shall be distributed as

provided by K.S.A. 74-8836, and amendments thereto.

Sec. 65. K.S.A. 74-8823 is hereby amended to read as follows: 74-8823. (a) There is hereby imposed a tax on the gross sum wagered by the parimutuel method as follows:

(1) Of the total daily takeout from parimutuel pools for live horse races conducted in this state, a tax at the rate of  $\frac{3}{18}$ ; and

~~(2) except as provided by subsection (a)(3), for live greyhound races conducted in this state at a racetrack facility for the racing of only greyhounds: (A) During the first four years when racing with parimutuel wagering is conducted at such facility, a tax at the rate of  $\frac{3}{18}$  of the total daily takeout from parimutuel pools for live greyhound races; and (B) thereafter, from parimutuel pools for each live greyhound performance, a tax at the rate of  $\frac{3}{18}$  of the first \$400,000 wagered,  $\frac{4}{18}$  of the next \$200,000 wagered and  $\frac{5}{18}$  of any amounts wagered exceeding \$600,000;~~

~~(3) for live greyhound races conducted in this state at a dual racetrack facility or at a racetrack facility owned by a licensee whose license authorizes the construction of a dual racetrack facility: (A) During the first seven years when racing with parimutuel wagering is conducted at such facility, a tax at the rate of  $\frac{3}{18}$  of the total daily takeout from parimutuel pools for live greyhound races; and (B) thereafter, from parimutuel pools for each live greyhound performance, a tax at the rate of  $\frac{3}{18}$  of the first \$600,000 wagered,  $\frac{4}{18}$  of the next \$200,000 wagered and  $\frac{5}{18}$  of any amounts wagered exceeding \$800,000; and~~

~~(4) of the total daily takeout from amounts wagered in this jurisdiction on simulcast races displayed in this state, a tax at the rate of  $\frac{3}{18}$ .~~

(b) The tax imposed by this section shall be no less than 3% nor more than 6% of the total money wagered each day at a racetrack facility.

(c) The tax imposed by this section shall be remitted to the commission by each

organization licensee by the next business day following the day on which the wagers took place. The commission shall remit any such tax moneys received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state racing fund created by K.S.A. 74-8826, and amendments thereto, except as provided by K.S.A. 74-8838, and amendments thereto.

(d) The commission shall audit and verify that the amount of tax received from each organization licensee hereunder is correct.

(e) Nothing in this section shall be construed to impose any tax on amounts wagered on electronic gaming machine games operated pursuant to the Kansas expanded lottery act.

Sec. 66. K.S.A. 74-8825 is hereby amended to read as follows: 74-8825. (a) The power to regulate, license and tax the management, operation and conduct of and participation in horse racing ~~and greyhound racing~~, and parimutuel wagering thereon and racetrack facilities therefor, is hereby vested exclusively in the state.

(b) Persons and entities licensed pursuant to this act, and their income, property and sales, shall be subject to taxation in accordance with the general tax laws of this state, any retailers' sales tax imposed pursuant to K.S.A. 12-187 et seq. or 79-3601 et seq., and amendments thereto, any general local property tax levies and any general local business or occupation tax. No political subdivision shall:

(1) Exempt such persons or entities, or their income, property, sales, business or occupation from any such tax, or abate any such tax which is applicable to such persons, entities, income, property, sales, business or occupation, unless such exemption or abatement is provided by statute; or

(2) levy any additional tax upon the privilege of managing, operating, conducting or

participating in horse racing ~~and greyhound racing~~, and parimutuel wagering thereon and racetrack facilities therefor.

(c) Persons and entities licensed pursuant to this act shall be subject to any general local business or occupation licensure requirements and fees but no political subdivision shall impose any additional licensure requirements or fees on the privilege of managing, operating, conducting or participating in horse ~~or greyhound~~ racing, or parimutuel wagering thereon or racetrack facilities therefor.

Sec. 67. K.S.A. 74-8826 is hereby amended to read as follows: 74-8826. (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 in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of 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.

Sec. 68. K.S.A. 74-8827 is hereby amended to read as follows: 74-8827. (a) There is hereby created the racing reimbursable expense fund in the state treasury.

(b) All fees for processing fingerprints of licensees and reimbursements from licensees for the services of assistant animal health officers, and stewards ~~and racing judges~~ at racetrack facilities ~~which~~ that are collected by the commission shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the racing reimbursable expense fund. All moneys credited to such fund shall be

expended 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) The expenses incurred by the commission for the processing of fingerprints of licensees and for payment of the services of assistant animal health officers; and stewards ~~and racing judges~~ at racetrack facilities shall be paid from the racing reimbursable expense fund.

Sec. 69. K.S.A. 74-8836 is hereby amended to read as follows: 74-8836. (a) Any organization licensee that conducts at least 150 days of live racing during a calendar year or a fair association that conducts fewer than 22 days of live racing during a calendar year may apply to the commission for a simulcasting license to display simulcast horse ~~or greyhound~~ races and to conduct intertrack parimutuel wagering thereon. If the organization licensee conducts races at a racetrack facility that is owned by a facility owner licensee, both licensees shall join in the application. A simulcasting license granted to a fair association that conducts fewer than 22 days of live racing shall restrict the fair association's display of simulcast races to a number of days, including days on which it conducts live races, equal to not more than twice the number of days on which it conducts live races.

(b) (1) A simulcasting license granted to an organization licensee other than a fair association shall authorize the display of simulcast races at the racetrack facility where the live races are conducted so long as the licensee conducts at least eight live races per day and an average of 10 live races per day per week. If a simulcasting licensee conducts live horse races on a day when simulcast races are displayed by the licensee and the licensee conducts fewer than an average of 10 live horse races per day per week, not less than 80% of the races on which wagers are taken by the licensee during such week shall be live races conducted by the licensee unless

approved by the recognized horsemen's group or upon a finding by the commission that the organization licensee was unable to do so for reasonable cause. ~~If a simulcast licensee conducts live greyhound races on a day when simulcast races are displayed by the licensee and the licensee schedules fewer than 13 live greyhound races during a performance on such day, not less than 80% of the races on which wagers are taken by the licensee during such performance shall be live races conducted by the licensee.~~

(2) A simulcasting license granted to a fair association shall authorize the display of simulcast races at the racetrack facility where the races are conducted only if live races are scheduled for two or more days of the same calendar week, except that the licensee may conduct simulcast races in the week immediately before and immediately after a live meeting if the total number of days on which simulcast races are displayed does not exceed the total authorized in subsection (a). In no case shall the live meet or simulcast races allowed under this subsection exceed 10 consecutive weeks. For purposes of this subsection, a calendar week shall be measured from Monday through the following Sunday.

(3) Notwithstanding the provisions of subsection (a), (b)(1) or (b)(2), a fair association may apply to the commission for not more than five additional days of simulcasting of special events. In addition, the commission may authorize a fair association to display additional simulcast races but, if such fair association is less than 100 miles from an organization licensee that is not a fair association, it also shall secure written consent from that organization licensee.

(4) Notwithstanding the provisions of subsection (b)(1), if an emergency causes the cancellation of all or any live races scheduled for a day or performance by a simulcasting licensee, the commission or the commission's designee may authorize the licensee to display any simulcast races previously scheduled for such day or performance.

(5) Notwithstanding the provisions of subsection (b)(1), the commission may authorize

the licensee to display simulcast special racing events as designated by the commission.

(c) The application for a simulcasting license shall be filed with the commission at a time and place prescribed by rules and regulations of the commission. The application shall be in a form and include such information as the commission prescribes.

(d) To qualify for a simulcasting license the applicant shall:

(1) Comply with the interstate horse racing act of 1978 (~~15 U.S.C. § 3001 et seq.~~), as in effect December 31, 1991;

(2) submit with the application a written approval of the proposed simulcasting schedule signed by: ~~(A) the recognized horsemen's group for the track, if the applicant is licensed to conduct only horse races; (B) the recognized greyhound owners' group, if the applicant is licensed to conduct only greyhound races and only greyhound races are to be simulcast; (C) both the recognized greyhound owners' group and a recognized horsemen's group, if the applicant is licensed to conduct only greyhound races and horse races are to be simulcast; (D) the recognized greyhound owners' group, if the applicant is licensed to conduct both greyhound and horse races, only greyhound races are to be simulcast and races are to be simulcast only while the applicant is conducting live greyhound races; (E) the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound and horse races, only horse races are to be simulcast and races are to be simulcast only while the applicant is conducting live horse races; or (F) both the recognized greyhound owners' group and the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound races and horse races and horse races are to be simulcast while the applicant is conducting live greyhound races or greyhound races are to be simulcast while the applicant is conducting live horse races; and~~

(3) submit, in accordance with rules and regulations of the commission and before the simulcasting of a race, a written copy of each contract or agreement which the applicant proposes

to enter into with regard to such race, and any proposed modification of any such contract or agreement.

(e) The term of a simulcasting license shall be one year.

(f) A simulcasting licensee may apply to the commission or its designee for changes in the licensee's approved simulcasting schedule if such changes are approved by the ~~respective recognized greyhound owners' group or~~ recognized horsemen's group needed throughout the term of the license. Application shall be made upon forms furnished by the commission and shall contain such information as the commission prescribes.

(g) Except as provided by subsection (j), the takeout for simulcast horse ~~and greyhound~~ races shall be the same as it is for the live horse ~~and greyhound~~ races conducted during the current or next live race meeting at the racetrack facility where the simulcast races are displayed. For simulcast races the tax imposed on amounts wagered shall be as provided by K.S.A. 74-8823, and amendments thereto. Of the balance of the takeout remaining after deduction of taxes, an amount equal to a percentage, to be determined by the commission, of the gross sum wagered on simulcast races shall be used for purses, as follows:

(1) ~~For greyhound races conducted by the licensee, if the simulcast race is a greyhound race and the licensee conducts only live greyhound races;~~

(2) ~~for~~ horse races conducted by the licensee, if the simulcast race is a horse race and the licensee conducts only live horse races;

(3) ~~for horse races and greyhound races, as determined by both the recognized horsemen's group and the recognized greyhound owners' group, if the simulcast race is a greyhound race and the licensee does not conduct or is not currently conducting live greyhound races; or~~

(4)(2) for horse races ~~and greyhound races~~, as determined by ~~both~~ the recognized

horsemen's group and the recognized greyhound owners' group, if the simulcast is a horse race and the licensee does not conduct or is not currently conducting live horse races. That portion of simulcast purse money determined to be used for horse purses shall be apportioned by the commission to the various horse race meetings held in any calendar year based upon the number of live horse race dates comprising such horse race meetings in the preceding calendar year.

(h) Except as provided by subsection (j):

~~(1) —~~ if a simulcasting licensee has a license to conduct live horse races and the licensee displays a simulcast horse race: ~~(A),~~ all breakage proceeds shall be remitted by the licensee to the commission not later than the 15<sup>th</sup> day of the month following the race from which the breakage is derived and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto; ~~and (B).~~ All unclaimed ticket proceeds shall be remitted by the licensee to the commission on the 61st day after the end of the calendar year and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto.

~~(2) — If a simuleasting licensee has a license to conduct live greyhound races and the licensee displays a simuleast greyhound race, breakage and unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8821 and 74-8822, and amendments thereto, for breakage and unclaimed winning ticket proceeds from live greyhound races.~~

~~(3) — If a simuleasting licensee has a license to conduct live racing of only horses and the~~

~~licensee displays a simulcast greyhound race, unclaimed winning ticket proceeds shall be distributed in the manner provided by K.S.A. 74-8822, and amendments thereto, for unclaimed winning ticket proceeds from live greyhound races. Breakage for such races shall be distributed for use to benefit greyhound racing as determined by the commission.~~

~~(4) If a simulcasting licensee has a license to conduct live racing of only greyhounds and the licensee displays a simulcast horse race: (A) All breakage proceeds shall be remitted by the licensee to the commission not later than the 15th day of the month following the race from which the breakage is derived and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto; and (B) all unclaimed ticket proceeds shall be remitted by the licensee to the commission on the 61st day after the end of the calendar year and the commission shall remit any such proceeds received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas horse breeding development fund created by K.S.A. 74-8829, and amendments thereto.~~

(i) The commission may approve a request by two or more simulcasting licensees to combine wagering pools within the state of Kansas pursuant to rules and regulations adopted by the commission.

(j) (1) The commission may authorize any simulcasting licensee to participate in an interstate combined wagering pool with one or more other racing jurisdictions.

(2) If a licensee participates in an interstate pool, the licensee may adopt the takeout of the host jurisdiction or facility. The amount and manner of paying purses from the takeout in an

interstate pool shall be as provided by subsection (g).

(3) The tax imposed on amounts wagered in an interstate pool shall be as provided by K.S.A. 74-8823, and amendments thereto. Parimutuel taxes may not be imposed on any amounts wagered in an interstate combined wagering pool other than amounts wagered within this jurisdiction.

(4) Breakage for interstate combined wagering pools shall be calculated in accordance with the statutes and rules and regulations of the host jurisdiction and shall be allocated among the participating jurisdictions in a manner agreed to among the jurisdictions. Breakage allocated to this jurisdiction shall be distributed as provided by subsection (h).

(5) Upon approval of the ~~respective recognized greyhound owners' group~~ or recognized horsemen's group, the commission may permit an organization licensee to simulcast to other racetrack facilities or off-track wagering or intertrack wagering facilities in other jurisdictions one or more races conducted by such licensee, use one or more races conducted by such licensee for an intrastate combined wagering pool or use one or more races conducted by such licensee for an interstate combined wagering pool at off-track wagering or intertrack wagering locations outside the commission's jurisdiction and may allow parimutuel pools in other jurisdictions to be combined with parimutuel pools in the commission's jurisdiction for the purpose of establishing an interstate combined wagering pool.

(6) The participation by a simulcasting licensee in a combined interstate wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located.

(k) If the organization licensee, facility owner licensee, if any, and the recognized horsemen's group ~~or recognized greyhound owners' group~~ are unable to agree concerning a simulcasting application, the matter may be submitted to the commission for determination at the

written request of any party in accordance with rules and regulations of the commission.

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

Sec. 70. K.S.A. 74-8838 is hereby amended to read as follows: 74-8838. (a) The state treasurer shall credit  $\frac{1}{3}$  of the taxes on the takeout from parimutuel pools for simulcast races, as certified by the executive director, to the horse fair racing benefit fund, which is hereby created in the state treasury.

(b) Twenty-five percent of all moneys credited to the horse fair racing benefit fund may be expended, upon application to the commission, for capital improvements to racetrack facilities on or adjacent to premises used by a fair association to conduct fair racing activities.

(c) The remaining moneys in the horse fair racing benefit fund shall be expended only for:

(1) Reimbursement of the commission for the commission's administrative costs, as established by rules and regulations of the commission, related to race meetings conducted by a fair association or a horsemen's nonprofit organization, including the cost of stewards, ~~racing~~ judges and assistant animal health officers performing services at such race meetings;

(2) paying the costs of totalisator expenses incurred by an organization licensee that is a fair association or horsemen's nonprofit organization;

(3) paying the costs of background investigations required under the Kansas parimutuel racing act for members of a fair association or horsemen's nonprofit organization;

(4) purse supplements at race meetings conducted by a fair association or horsemen's nonprofit organization;

(5) basic operating assistance grants to an organization licensee that is a fair association or horsemen's nonprofit organization; and

(6) costs for employment of key racing officials, as determined by the commission,

incurred by an organization licensee that is a fair association or horsemen's nonprofit organization.

(d) The commission shall adopt rules and regulations establishing procedures for distributing moneys in the horse fair racing benefit fund to fair associations and nonprofit horsemen's organizations for the purposes provided by this section.

(e) Expenditures from the horse fair racing benefit fund related to the conduct of a race meeting shall not be allocated to any organization licensee for a period exceeding 40 days.

~~(f) Expenditures from the horse fair racing benefit fund shall not be allocated to any organization licensee to support the conduct of parimutuel greyhound races unless the organization licensee conducts an equal or greater number of parimutuel horse races during the race meeting.~~

~~(g)~~ Expenditures from the horse fair racing benefit 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.

Sec. 71. K.S.A. 75-6102 is hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) (1) "Employee" means: (A) Any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable healthcare provider;

(B) any steward ~~or racing~~ judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward ~~or racing~~ judge are rendered pursuant to contract as an independent contractor;

(C) employees of the United States marshals service engaged in the transportation of inmates on behalf of the secretary of corrections;

(D) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor;

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the secretary of corrections to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program;

(F) a person who contracts with the Kansas guardianship program to provide services as

a court-appointed guardian or conservator;

(G) an employee of an indigent healthcare clinic;

(H) former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity;

(I) any member of a regional medical emergency response team, created under the provisions of K.S.A. 48-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response;

(J) any member of a regional search and rescue team or regional hazardous materials response team contracting with the state fire marshal pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 75-1518, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and

(K) medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another healthcare institution.

(2) "Employee" does not include:

(A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or

(B) any independent contractor under contract with a governmental entity except those contractors specifically listed in subsection (d)(1).

(e) "Charitable healthcare provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts, a mental health practitioner licensed by the behavioral sciences regulatory board, an ultrasound technologist currently registered in any area of sonography credentialed through the American

registry of radiology technologists, the American registry for diagnostic medical sonography or cardiovascular credentialing international and working under the supervision of a person licensed to practice medicine and surgery, or a healthcare provider as the term "healthcare provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information that would reasonably lead the healthcare provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of health and environment, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children's immunization programs administered by the secretary;

(3) a local health department or indigent healthcare clinic that renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of health and environment gratuitously or for a fee paid by the local health department or indigent healthcare clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional services rendered by a provider under this paragraph shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent healthcare clinic and notwithstanding any fee paid by the local health department or indigent healthcare clinic to a provider in accordance with this paragraph; or

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to, medically indigent persons, and are provided on a gratuitous basis: (A) At a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location; (B) at the office location of a dentist or dental hygienist provided the care be delivered as part of a program organized by a not-for-profit organization and approved by the secretary of health and environment; or (C) as part of a charitable program organized by the dentist that has been approved by the secretary of health and environment upon a showing that the dentist seeks to treat medically indigent patients on a gratuitous basis, except that such dentistry services and dental hygienist services shall not include "oral and maxillofacial surgery" as defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

(f) "Medically indigent person" means a person who lacks resources to pay for medically necessary healthcare services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(g) "Indigent healthcare clinic" means an outpatient medical care clinic operated on a not-for-profit basis that has a contractual agreement in effect with the secretary of health and environment to provide healthcare services to medically indigent persons.

(h) "Local health department" means the same as defined in K.S.A. 65-241, and amendments thereto.

(i) "Fire control, fire rescue or emergency medical services equipment" means any vehicle, firefighting tool, protective clothing, breathing apparatus and any other supplies, tools or equipment used in firefighting or fire rescue or in the provision of emergency medical services.

(j) "Community mental health center" means the same as defined in K.S.A. 2020 Supp. 39-2002, and amendments thereto.";

Also on page 51, in line 13, after the fifth comma by inserting "74-8746, 74-8747,"; in line 14, after the second comma by inserting "74-8766, 74-8767, 74-8801, 74-8802, 74-8804, 74-8805, 74-8806, 74-8808, 74-8810, 74-8811, 74-8812, 74-8813, 74-8814, 74-8815, 74-8816, 74-8818, 74-8819, 74-8820, 74-8821, 74-8822, 74-8823, 74-8825, 74-8826, 74-8827, 74-8831, 74-8832, 74-8836, 74-8838, 74-8842, 75-6102,";

And by renumbering sections accordingly;

On page 1, in the title, in line 6, after the semicolon by inserting "prohibiting greyhound racing and betting on all forms of dog racing,"; in line 7, after the sixth comma by inserting "74-8746, 74-8747,"; in line 8, after the fourth comma by inserting "74-8766, 74-8767, 74-8801, 74-8802, 74-8804, 74-8805, 74-8806, 74-8808, 74-8810, 74-8811, 74-8812, 74-8813, 74-8814, 74-8815, 74-8816, 74-8818, 74-8819, 74-8820, 74-8821, 74-8822, 74-8823, 74-8825, 74-8826, 74-8827, 74-8836, 74-8838, 75-6102,,"; in line 10, before the period by inserting "also repealing K.S.A. 74-8831, 74-8832 and 74-8842"

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\_\_\_\_\_ District.