

Approved: March 8, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Clyde Graeber at 1:30 p.m. on February 24, 1994 in Room 526-S of the Capitol.

All members were present except: Representative Lisa Benlon, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Janet Chubb, Executive Director, Kansas Racing Commission
Don Bird, Kansans For Life At Its Best
Pat Tynes, MADD
Gene Johnson, Kansas Community Alcohol Safety Project
Coordinators Association
Neal Whitaker, Kansas Beer Wholesalers Association
Rebecca Rice, Legislative Counsel to the Kansas Retail
Liquor Dealers Association

The Chairperson opened the hearing on HB 2577.

Janet Chubb, Executive Director, Kansas Racing Commission, stated the Kansas Quarterhorse and Thoroughbred representatives had conferred on HB 2577 and agreed to the following balloon amendments: on Page 2, line 7, delete "an" and insert "a nonprofit", on line 24 delete "Eureka Downs" and insert "Eureka Downs or Anthony Downs" and on line 36 delete "Eureka Downs" and insert "Eureka Downs or Anthony Downs", Page 24, line 33, strike "that" and on line 35 add "with the voluntary consent of a parimutuel teller" between licensee and may, line 36, strike "a parimutuel" and add "the". On Page 31 lines 17 and 19 strike "county fair horse" and replace with "horse", line 22 after "costs" add "as established by rules and regulations of the commission". On Page 32, lines 2, 5, 9, and 18 delete "county fair horse" and replace with "horse". Add paragraph (e) "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". KSA 74-8831 (a) change "money" to "moneys" and add (c) "Moneys credited to the Kansas greyhound breeding development fund shall be used only for the benefit of greyhounds" and make paragraph (c) (d). (See Attachment #1)

It was requested at an earlier meeting that the Kansas Racing Commission provide ratio of shortages to handle at the Kansas City and Wichita Tracks and that information was furnished. (See Attachment #2)

Representative Standifer moved and Representative Lane seconded to delete on page 24 (f), line 33 starting with "In" through "teller" on line 37. The motion carried.

Representative Cox moved and Representative Plummer seconded to amend on Page 22, line 21 and strike the language starting with "The" through line 28. The motion failed.

The Chairperson stated we are now back on the original bill.

Representative Sebelius moved and Representative Empson seconded to accept the balloon as amended. The motion carried.

Representative Wilk moved and Representative Lynch seconded to move HB 2577 out favorably as amended. The motion carried.

The Chairperson opened the hearing on HB 3020.

Mary Galligan, Principal Analyst, Kansas Legislative Research Department, gave a briefing on HB 3020.

Don Bird, Kansans For Life At Its Best, testified as a proponent for HB 3020, stating access to alcoholic beverages for underage users seems to be no problem as 2/3 of them report they can buy their own. This bill attempts to address the problem through the initiation of a simple record-keeping procedure on the part of retailers. (See Attachment #3)

Pat Tynes, Mothers Against Drunk Driving, testified in support of HB 3020, stating keg registration legislation establishes a means of identification of those who purchase kegs of beer. Those retailers and purchasers who are in compliance with the sale or purchase of kegs will not be adversely affected by this proposed legislation. One hundred five law enforcement agencies felt that a keg registration law would provide an effective deterrent to illegal sales and purchases of keg beer and its distribution to minors for consumption. (See Attachment #4)

Gene Johnson, representing Kansas Community Alcohol Safety Action Project Coordinators Association, the Kansas Alcoholism and Drug Addiction Counselors Association and the Kansas Association of Alcohol and Drug Program Directors, testified in support of HB 3020 stating it is another method of control the flow of intoxicating beverages to those persons under the legal age of consumption. (See Attachment #5)

Pat Shea, Chief of Police, Beloit, Kansas, testified in support of HB 3020. (No Attachment)

Neal Whitaker, Kansas Beer Wholesalers Association, testified in opposition to HB 3020 stating this legislation creates an unnecessary and complicated system of paperwork that will provide little or no benefit to law enforcement. Current law requires that purchasers of beer or Cereal Malt Beverage be at least 21 years of age. If there is any doubt about the age of the purchaser the licensee is expected to check an ID. All of the responsibility is placed on the retailer. If one's intent is to supply beer to minors, that person will simply use a readily available fake ID to make the purchase. Education is the key. (See Attachment #6)

Rebecca Rice, Legislative Counsel to the Kansas Retail Liquor Dealers Association, testified opposing HB 3020 stating this legislation requires a retailer to place an identification number of any beer container having a capacity of six or more gallons - basically a keg of beer. The objectionable part of the amendment is the requirement that the retailer or an employee must record, at the time of sale, the identification number, the date of sale, the purchaser's name, address and signature, and the number from the photo identification presented. The record of the transaction must be maintained for not less than six months. If a false I.D. is used, it will be untraceable. What are the civil consequences of the false identifications? What is the burden of proof in estimating an I.D. was accepted if it is untraceable. What is the liability for a clerk making a recording error. The threat of civil litigation coupled with the automatic five-day suspension of the retailer's license indicate the true purpose: to eliminate the sale of kegs to individuals other than taverns or other liquor by the drink establishments. (See Attachment #7)

Representative Plummer moved and Representative Boston seconded to amend HB 3020 on Page 1, lines 31 and 32 be changed from "the director shall suspend the retailer's liquor license for five business days" to "\$50.00 fine" and on Page 2, line 19 delete "suspend the retailer's license for five business day" and replace with \$50.00 fine". The motion carried.

After discussion, Representative Cox moved and Representative Standifer seconded to Table HB 3020. The motion carried.

The Chairperson stated he wanted to congratulate Representative Rock as this was the last day he would be present at our committee meetings as he has resigned to accept another position and want to wish him good luck in his new position and has enjoyed having him as a committee member.

The meeting adjourned at 3:10 PM.

Meetings next week will be on call of the Chairperson.

Date: 2/24

FEDERAL and STATE AFFAIRS COMMITTEE

NAME	ORGANIZATION	ADDRESS
Gene Johnson	Topeka	Ks Alcohol & Drug Prog
Sonia Jim Hunt	K. Q. H. R. A	Valley Falls, Ks
Karen Toller	KQHRA	Overland Park, Ks
PAT TYNES	MADD	Topeka KS
DON BRUER	TOPEKA	KDHR
Gene Johnson	KRC	Topeka
Cheryl Dolejsi	KRC	Topeka
Frances Snel	KRC	Topeka
Robert C. Sonderholm	Chair - KRC	Ulathe
Jim McHaff	Ks AFL-CIO	110 W 8
Amy Campbell	KRLDA	Topeka, KS
Neal White	Ks Beer Wholesaler Assn	Topeka
Bill Denny	Ks Thompson Assn	Topeka
Bruce Kimbo	Sunflower	KK
Janet A. Chubb	KRC	Topeka

Date: 2/24/94

FEDERAL and STATE AFFAIRS COMMITTEE

[illegible]

HOUSE BILL No. 2577

By Committee on Federal and State Affairs

1-10

8 AN ACT amending the Kansas racing act; amending K.S.A. 74-8801,
9 74-8802, 74-8813, 74-8814, 74-8819, 74-8836, 74-8837 and 74-8838
10 and K.S.A. 1993 Supp. 74-8804, 74-8810 and 74-8818 and re-
11 pealing the existing sections.
12

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

14 Section 1. K.S.A. 74-8801 is hereby amended to read as follows:
15 74-8801. K.S.A. 74-8801 through ~~74-8834~~ 74-8839 *and amendments*
16 *thereto* shall be known and may be cited as the Kansas parimutuel
17 racing act and shall apply to all horse race meetings, ~~whether or~~
18 ~~not at which~~ parimutuel wagering is used or intended to be used
19 ~~at such meetings~~, and to all greyhound race meetings at which
20 parimutuel wagering is used or intended to be used.

21 Sec. 2. K.S.A. 74-8802 is hereby amended to read as follows:
22 74-8802. As used in this act unless the context otherwise requires:

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

25 (1) A multiple of \$.10, for parimutuel pools from races conducted
26 in this state; and

27 (2) a multiple of such other number of cents as provided by law
28 of the host jurisdiction, for interstate combined wagering pools.

29 (b) "Commission" means the Kansas racing commission created
30 by this act.

31 (c) "Concessionaire licensee" means a person, partnership, cor-
32 poration or association licensed by the commission to utilize a space
33 or privilege within a racetrack facility to sell goods.

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

38 (e) "Executive director" means the executive director of the com-
39 mission.

40 (f) "Facility manager licensee" means a person, partnership, cor-
41 poration or association licensed by the commission and having a
42 contract with an organization licensee to manage a racetrack facility.

43 (g) "Facility owner licensee" means a person, partnership, cor-

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1 poration or association, or the state of Kansas or any political sub-
 2 division thereof, licensed by the commission to construct or own a
 3 racetrack facility but does not mean an organization licensee which
 4 owns the racetrack facility in which it conducts horse or greyhound
 5 racing.

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

11 (h) (i) "Financial interest" means an interest that could result
 12 directly or indirectly in receiving a pecuniary gain or sustaining a
 13 pecuniary loss as a result of ownership or interest in a business
 14 entity or activity or as a result of a salary, gratuity or other com-
 15 pensation or remuneration from any person.

16 (i) (j) "Greyhound" means any greyhound breed of dog properly
 17 registered with the national greyhound association of Abilene, Kan-
 18 sas.

19 (j) (k) "Horsemen's association" means any association or cor-
 20 poration:

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

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

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

31 (k) (l) "Horsemen's nonprofit organization" means any nonprofit
 32 organization:

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

36 (2) which is applying for or has been issued an organization li-
 37 cense authorizing the conduct of horse races at ~~Eureka Downs~~ Eureka Downs or Anthony Downs or
 38 ~~a racetrack facility on or adjacent to premises used by a fair association~~
 39 to conduct fair activities.

40 (l) (m) "Host facility" means the racetrack at which the race is
 41 run or, if the race is run in a jurisdiction which is not participating
 42 in the interstate combined wagering pool, the racetrack or other
 43 facility which is designated as the host facility.

(m) (n) "Host jurisdiction" means the jurisdiction where the host

1 facility is located.

2 ~~(n)~~ (o) "Interstate combined wagering pool" means a parimutuel
3 pool established in one jurisdiction which is combined with com-
4 parable parimutuel pools from one or more racing jurisdictions for
5 the purpose of establishing the amount of money returned on a
6 successful wager in the participating jurisdictions.

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

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

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

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

22 ~~(s)~~ (t) "Nonprofit organization" means:

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

27 (2) a ~~county fair association organized pursuant to K.S.A. 2-~~
28 ~~125 et seq. and amendments thereto~~ *fair association*.

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

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

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

38 ~~(w)~~ (x) "Parimutuel pool" means the total money wagered by
39 individuals on one or more horses or greyhounds in a particular
40 horse or greyhound race to win, place or show, or combinations
41 thereof, as established by the commission, and, except in the case
42 of an interstate or intrastate combined wagering pool, held by the
43 organization licensee pursuant to the parimutuel system of wagering.

1 There is a separate parimutuel pool for win, for place, for show and
2 for each of the other forms of betting provided for by the rules and
3 regulations of the commission.

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

10 ~~(y)~~ (z) "Race meeting" means the entire period of time for which
11 an organization licensee has been approved by the commission to
12 hold live or simulcast horse or greyhound races at which parimutuel
13 wagering is conducted ~~or to hold horse races at which parimutuel~~
14 ~~wagering is not conducted~~, including such additional time as des-
15 ignated by the commission for the conduct of official business before
16 and after the races.

17 ~~(z)~~ "Racing jurisdiction" or "jurisdiction" means a govern-
18 mental authority which is responsible for the regulation of live
19 or simulcast racing in its jurisdiction.

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

26 ~~(bb)~~ "Racing jurisdiction" or "jurisdiction" means a governmental
27 authority which is responsible for the regulation of live or simulcast
28 racing in its jurisdiction.

29 ~~(cc)~~ "Racing or wagering equipment or services licensee" means
30 any person, partnership, corporation or association licensed by the
31 commission to provide integral racing or wagering equipment or
32 services, as designated by the commission, to an organization li-
33 censee.

34 ~~(bb)~~ (dd) "Recognized greyhound owners' group" means the duly
35 recognized group elected by a majority of the Kansas licensed grey-
36 hound owners at the racetrack facility.

37 ~~(ee)~~ (ee) "Recognized horsemen's group" means the duly rec-
38 ognized group, representing the breeds of horses running at a race-
39 track facility, elected by a majority of the licensed owners and train-
40 ers at the racetrack facility. If the licensee does not have a recognized
41 horsemen's group, the commission shall designate as the recognized
42 horsemen's group one that serves another organization licensee, but
43 not one that serves a county fair association organization licensee.

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

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

8 (ff) "Totalisator licensee" means any person, partnership,
9 corporation or association licensed by the commission to pro-
10 vide totalisator equipment or services to an organization li-
11 censee.

12 Sec. 3. K.S.A. 1993 Supp. 74-8804 is hereby amended to read
13 as follows: 74-8804. (a) During race meetings, the commission and
14 its designated employees may observe and inspect all racetrack fa-
15 cilities operated by licensees and all racetracks simulcasting races to
16 racetrack facilities in Kansas, including but not limited to all ma-
17 chines, equipment and facilities used for parimutuel wagering.

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

22 (c) The commission may examine, or cause to be examined by
23 any agent or representative designated by the commission, any
24 books, papers, records or memoranda of any licensee, or of any
25 racetrack or business involved in simulcasting races to racetrack fa-
26 cilities in Kansas, for the purpose of ascertaining compliance with
27 any provision of this act or any rule and regulation adopted her-
28 eunder.

29 (d) The commission may issue subpoenas to compel access to or
30 for the production of any books, papers, records or memoranda in
31 the custody or control of any licensee or officer, member, employee
32 or agent of any licensee, or to compel the appearance of any licensee
33 or officer, member, employee or agent of any licensee, or of any
34 racetrack or business involved in simulcasting races to racetrack fa-
35 cilities in this state, for the purpose of ascertaining compliance with
36 any of the provisions of this act or any rule and regulation adopted
37 hereunder. Subpoenas issued pursuant to this subsection may be
38 served upon individuals and corporations in the same manner pro-
39 vided in K.S.A. 60-304 and amendments thereto for the service of
40 process by any officer authorized to serve subpoenas in civil actions
41 or by the commission or an agent or representative designated by
42 the commission. In the case of the refusal of any person to comply
43 with any such subpoena, the executive director may make application

1 to the district court of any county where such books, papers, records,
2 memoranda or person is located for an order to comply.

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

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

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

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

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

21 (g) The commission shall review and approve all proposed con-
22 struction and major renovations to racetrack facilities owned or leased
23 by licensees.

24 (h) The commission shall review and approve all proposed con-
25 tracts with racetracks or businesses involved in simulcasting races to
26 racetrack facilities in Kansas.

27 (i) The commission may suspend a horse or greyhound from par-
28 ticipation in races if such horse or greyhound has been involved in
29 any violation of the provisions of this act or any rule and regulation
30 or order of the commission.

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

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

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

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

40 A decision of the commission to overrule any decision of a steward
41 or racing judge shall not change the distribution of parimutuel pools
42 to the holders of winning tickets. A decision of the commission which
43 would affect the distribution of purses in any race shall not result

1 in a change in that distribution unless a written claim is submitted
2 to the commission within 48 hours after completion of the contested
3 race by one of the owners or trainers of a horse or greyhound which
4 participated in such race and a preponderance of evidence clearly
5 indicates to the commission that one or more of the grounds for
6 protest, as provided for in rules and regulations of the commission,
7 has been substantiated.

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

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

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

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

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

25 (n) The commission may require fingerprinting of all persons
26 necessary to verify qualification for any license, including a simul-
27 casting license, issued pursuant to this act. The commission shall
28 submit such fingerprints to the Kansas bureau of investigation and
29 to the federal bureau of investigation for the purposes of verifying
30 the identity of such persons and obtaining records of criminal arrests
31 and convictions.

32 (o) The commission may receive from *commission security per-*
33 *sonnel*, the Kansas bureau of investigation or other criminal justice
34 agencies such criminal history record information (including arrest
35 and nonconviction data), criminal intelligence information and in-
36 formation relating to criminal and background investigations as nec-
37 essary for the purpose of determining qualifications of licensees of
38 the commission, *employees of the commission, applicants for em-*
39 *ployment by the commission*, and applicants for licensure *by the*
40 *commission*, including applicants for simulcasting licenses, ~~by the~~
41 ~~commission~~. Upon the written request of the chairperson of the
42 commission, the commission may receive from the district courts
43 such information relating to juvenile proceedings as necessary for

1 the purpose of determining qualifications of licensees of and appli-
2 cants for licensure by the commission. Such information, other than
3 conviction data, shall be confidential and shall not be disclosed except
4 to members and employees of the commission as necessary to de-
5 termine qualifications of such licensees and applicants. Any other
6 disclosure of such confidential information is a class A misdemeanor
7 and shall constitute grounds for removal from office, termination of
8 employment or denial, revocation or suspension of any license issued
9 under this act.

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

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

17 Sec. 4. K.S.A. 1993 Supp. 74-8810 is hereby amended to read
18 as follows: 74-8810. (a) It is a class A nonperson misdemeanor for
19 any person to have a financial interest, directly or indirectly, in any
20 racetrack facility within the state of Kansas or in any host facility
21 for a simulcast race displayed in this state:

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

25 (2) while such person is an officer, director or member of an
26 organization licensee, other than a ~~county~~ fair association or ~~horse-~~
27 ~~man's~~ ~~horsemen's~~ nonprofit organization, or during the five years
28 immediately following the time such person is an officer, director
29 or member of such an organization licensee.

30 (b) It is a class A nonperson misdemeanor for any member, em-
31 ployee or appointee of the commission, including stewards and racing
32 judges, to knowingly:

33 (1) Participate in the operation of or have a financial interest in
34 any business which has been issued a concessionaire license, ~~total-~~
35 ~~isator racing or wagering equipment or services~~ license, facility
36 owner license or facility manager license, or any business which sells
37 goods or services to an organization licensee;

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

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

43 (4) accept any compensation, gift, loan, entertainment, favor or

1 service from any licensee, except such suitable facilities and services
2 within a racetrack facility operated by an organization licensee as
3 may be required to facilitate the performance of the member's,
4 employee's or appointee's official duties.

5 (c) It is a class A nonperson misdemeanor for any member, em-
6 ployee or appointee of the commission, or any spouse, parent, grand-
7 parent, brother, sister, child, grandchild, uncle, aunt, parent-in-law,
8 brother-in-law or sister-in-law thereof, to:

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

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

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

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

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

28 (e) It is a class A nonperson misdemeanor for any facility owner
29 licensee or facility manager licensee, other than a horsemen's as-
30 sociation, or any officer, director, employee, stockholder or share-
31 holder thereof or any person having an ownership interest therein,
32 to participate directly or indirectly as an owner, owner-trainer or
33 trainer of a horse or greyhound, or as a jockey of a horse, entered
34 in a live race conducted in this state.

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

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

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

- 1 (g) It is a class B nonperson misdemeanor for any person to use
2 any animal or fowl in the training or racing of racing greyhounds.
- 3 (h) It is a class A nonperson misdemeanor for any person to:
- 4 (1) Sell a parimutuel ticket or an interest in such a ticket to a
5 person knowing such person to be under 18 years of age, upon
6 conviction of the first offense;
- 7 (2) accept, transmit or deliver, from a person outside a racetrack
8 facility, anything of value to be wagered in any parimutuel system
9 of wagering within a racetrack facility, upon conviction of the first
10 offense;
- 11 (3) administer or conspire to administer any drug or medication
12 to a horse or greyhound within the confines of a racetrack facility
13 in violation of rules and regulations of the commission, upon con-
14 viction of the first offense;
- 15 (4) possess or conspire to possess, within the confines of a race-
16 track facility, any drug or medication for administration to a horse
17 or greyhound in violation of rules and regulations of the commission,
18 upon conviction of the first offense;
- 19 (5) possess or conspire to possess, within the confines of a race-
20 track facility, equipment for administering drugs or medications to
21 horses or greyhounds in violation of rules and regulations of the
22 commission, upon conviction of the first offense;
- 23 (6) enter any horse or greyhound in any race knowing such horse
24 or greyhound to be ineligible to compete in such race pursuant to
25 K.S.A. 74-8812 and amendments thereto; or
- 26 (7) prepare or cause to be prepared an application for registration
27 of a horse pursuant to K.S.A. 74-8830 and amendments thereto
28 knowing that such application contains false information.
- 29 (i) It is a severity level 8, nonperson felony for any person to:
- 30 (1) Sell a parimutuel ticket or an interest in such a ticket to a
31 person knowing such person to be under 18 years of age, upon
32 conviction of the second or a subsequent offense;
- 33 (2) accept, transmit or deliver, from any person outside a race-
34 track facility, anything of value to be wagered in any parimutuel
35 system of wagering within a racetrack facility, upon the second or
36 a subsequent conviction;
- 37 (3) conduct or assist in the conduct of a horse or greyhound race,
38 or the display of a simulcast race, where the parimutuel system of
39 wagering is used or is intended to be used and where no license
40 has been issued to an organization to conduct or simulcast such race;
- 41 (4) enter any horse or greyhound in any race conducted by an
42 organization licensee knowing that the class or grade in which such
43 horse or greyhound is entered is not the true class or grade or

1 knowing that the name under which such horse or greyhound is
2 entered is not the name under which such horse or greyhound has
3 been registered and has publicly performed;

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

8 (6) administer or conspire to administer any drug or medication
9 to a horse or greyhound within the confines of a racetrack facility
10 in violation of rules and regulations of the commission, upon con-
11 viction of the second or a subsequent offense;

12 (7) possess or conspire to possess, within the confines of a race-
13 track facility, any drug or medication for administration to a horse
14 or greyhound in violation of rules and regulations of the commission,
15 upon conviction of the second or a subsequent offense;

16 (8) possess or conspire to possess, within the confines of a race-
17 track facility, equipment for administering drugs or medications to
18 horses or greyhounds in violation of rules and regulations of the
19 commission, upon conviction of the second or a subsequent offense;

20 (9) sponge the nostrils or windpipe of a horse for the purpose
21 of stimulating or depressing such horse or affecting its speed at any
22 time during a race meeting conducted by an organization licensee;

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

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

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

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

41 (14) commit any of the following acts with respect to the prior
42 racing record, pedigree, identity or ownership of a registered horse
43 or greyhound in any matter related to the breeding, buying, selling

1 or racing of the animal: (A) Falsify, conceal or cover up, by any
2 trick, scheme or device, a material fact; (B) make any false, fictitious
3 or fraudulent statement or representation; or (C) make or use any
4 false writing or document knowing that it contains any false, fictitious
5 or fraudulent statement or entry; or

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

8 (j) No person less than 18 years of age shall purchase a parimutuel
9 ticket or an interest in such a ticket. Any person violating this
10 subsection shall be subject to adjudication as a juvenile offender
11 pursuant to the Kansas juvenile offenders code.

12 (k) Possession of any device described in subsection (i)(5) by an-
13 yone within the confines of a racetrack facility shall be prima facie
14 evidence of intent to use such device.

15 Sec. 5. K.S.A. 74-8813 is hereby amended to read as follows:
16 74-8813. (a) A nonprofit organization may apply to the commission
17 for an organization license to conduct horse races or an organization
18 license to conduct greyhound races, or both such licenses. In ad-
19 dition, an organization license may authorize the licensee to construct
20 or own a racetrack facility if so provided by the commission. The
21 application for an organization license shall be filed with the com-
22 mission at a time and place prescribed by rules and regulations of
23 the commission. The application shall specify the days when and the
24 exact location where it proposes to conduct such races and shall be
25 in a form and include such information as the commission prescribes.
26 A nonrefundable application fee in the form of a certified check or
27 bank draft shall accompany the application. Except as provided pur-
28 suant to K.S.A. 74-8814 and amendments thereto, such fee shall be
29 as follows: (1) For an application for an organization license to conduct
30 horse or greyhound races with parimutuel wagering, a fee of \$5,000
31 for each application; and (2) for an application for an organization
32 license to conduct horse races without parimutuel wagering, a fee
33 of \$500 for each application. If the application fee is insufficient to
34 pay the reasonable expenses of processing the application and in-
35 vestigating the applicant's qualifications for licensure, the commission
36 shall require the applicant to pay to the commission, at such times
37 and in such form as required by the commission, any additional
38 amounts necessary to pay such expenses. No license shall be issued
39 to an applicant until the applicant has paid such additional amounts
40 in full, and such amounts shall not be refundable except to the
41 extent that they exceed the actual expenses of processing the ap-
42 plication and investigating the applicant's qualifications for licensure.

43 (b) If an applicant for an organization license is proposing to

1 construct a racetrack facility, such applicant, at the time of submitting
2 the application, shall deposit with the commission, in such form as
3 prescribed by rules and regulations of the commission, the sum of:
4 (1) \$500,000, if the number of racing days applied for in a racing
5 season is 150 days or more; (2) \$250,000, if the number of racing
6 days applied for is less than 150 days; or (3) a lesser sum established
7 by the commission, if the applicant meets the qualifications set forth
8 in subsection (a)(1) or (a)(2) of K.S.A. 74-8814 and amendments
9 thereto or if the applicant will be conducting races only on the state
10 fairgrounds. Only one such deposit shall be required for a dual
11 racetrack facility. The executive director shall promptly remit any
12 deposit received pursuant to this subsection to the state treasurer.
13 The state treasurer shall deposit the entire amount in the state
14 treasury and credit it to the racing applicant deposit fund created
15 by K.S.A. 74-8828 and amendments thereto. If the application is
16 denied by the commission, the deposit, and any interest accrued
17 thereon, shall be refunded to the applicant. If the license is granted
18 by the commission in accordance with the terms of the application
19 or other terms satisfactory to the applicant, the deposit, and any
20 interest accrued thereon, shall be refunded to the licensee upon
21 completion of the racetrack facility in accordance with the terms of
22 the license. If the licensee fails to complete the racetrack facility in
23 accordance with the terms of the license, the deposit, and any in-
24 terest accrued thereon, shall be forfeited by the applicant.

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

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

29 (2) the applicant shall have, either by itself or through contractual
30 relationships with other persons or businesses approved by the com-
31 mission, the financial capability, manpower and technical expertise,
32 as determined by the commission, to properly conduct horse races
33 or greyhound races, or both, and, if applicable, to operate a pari-
34 mutuel wagering system;

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

40 (4) submit for commission approval a written copy of each con-
41 tract and agreement which the applicant proposes to enter into,
42 including all those listed in subsection (n), which contracts and agree-
43 ments shall conform to the restrictions placed thereon by subsections

1 (n), (o) and (p);

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

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

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

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

23 (1) Distribute all of its net earnings from the conduct of horse
24 and greyhound races, other than that portion of the net earnings
25 which is necessary to satisfy the debt service obligations, not oth-
26 erwise deducted from net earnings, of an organization licensee own-
27 ing the racetrack facility or that portion of the net earnings which
28 is set aside as reasonable reserves for future improvement, main-
29 tenance and repair of the racetrack facility owned by the organization
30 licensee, only to organizations, other than itself, which: (A) Have
31 been exempted from the payment of federal income taxes pursuant
32 to section 501(c)(3) of the federal internal revenue code of 1986, as
33 in effect July 1, 1987, (B) are domiciled in this state and (C) expend
34 the moneys so distributed only within this state;

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

37 (3) not engage in, and have no officer, director or member who
38 engages in, any prohibited transaction, as defined by section 503(b)
39 of the federal internal revenue code of 1986, as in effect July 1,
40 1987; and

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

43 (e) Within 30 days after the date specified for filing, the com-

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

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

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

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

(3) the amount of revenue that can reasonably be expected to be generated from state and local taxes, the economic impact for

1 the respective horse or greyhound breeding industries in Kansas and
2 the indirect economic benefit to the surrounding area, in the de-
3 termination of which economic benefit the commission shall solicit
4 written recommendations from all interested parties in the surround-
5 ing area;

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

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

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

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

30 (i) All organization licenses shall be reviewed annually by the
31 commission to determine if the licensee is complying with the pro-
32 visions of this act and rules and regulations of the commission and
33 following such proposed plans and operating procedures as were
34 approved by the commission. The commission may review an or-
35 ganization license more often than annually upon its own initiative
36 or upon the request of any interested party. The commission shall
37 require each organization licensee, other than a ~~county~~ fair asso-
38 ciation, or horsemen's nonprofit organization, to file annually with
39 the commission a certified financial audit of the licensee by an in-
40 dependent certified public accountant, which audit shall be open to
41 inspection by the public, and may require an organization licensee
42 to provide any other information necessary for the commission to
43 conduct the annual or periodic review.

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

6 (1) One or more violations, or a pattern of repeated violations,
7 of the provisions of this act or rules and regulations of the com-
8 mission;

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

12 (3) failure to maintain compliance with the requirements of sub-
13 section (c) or (d), if applicable, for the initial issuance of an organ-
14 ization license;

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

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

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

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

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

42 (l) Prior to the expiration of an organization license, the organ-
43 ization may apply to the commission for renewal of such license.

1 The renewal application shall be in a form and include such infor-
2 mation as the commission prescribes. The commission shall grant
3 such renewal if the organization meets all of the qualifications re-
4 quired for an initial license. The commission may charge a fee for
5 the processing of the renewal application not to exceed the appli-
6 cation fee authorized for an initial license.

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

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

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

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

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

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

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

34 (o) Organization licensees shall not by lease, contract, agreement,
35 understanding or arrangement of any kind grant, assign or turn over
36 to any person the parimutuel system of wagering described in K.S.A.
37 74-8819 and amendments thereto or the operation and conduct of
38 any horse or greyhound race to which such wagering applies, but
39 this subsection shall not prohibit the organization licensee from con-
40 tracting with and compensating others for providing services in con-
41 nection with the financing, acquisition, construction, equipping,
42 maintenance and management of the racetrack facility; the hiring,
43 and training of personnel; the promotion of the facility; operation

1 and conduct of a simulcast race displayed by a simulcasting licensee;
2 parimutuel wagering at racetrack facilities; and parimutuel wagering
3 at off-track wagering and intertrack wagering facilities in other ju-
4 risdictions to which live races conducted by the organization licensee
5 are simulcast.

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

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

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

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

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

40 (r) If an applicant for an organization license proposes to construct
41 a racetrack facility and the commission determines that such license
42 should be issued to the applicant, the commission shall issue to the
43 applicant an organization license conditioned on the submission by

1 the licensee to the commission, within a period of time prescribed
2 by the commission, of a commitment for financing the construction
3 of the racetrack facility by a financial institution or other source,
4 subject to approval by the commission. If such commitment is not
5 submitted within the period of time originally prescribed by the
6 commission or such additional time as authorized by the commission,
7 the license shall expire at the end of such period.

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

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

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

23 (t) Any license granted an organization licensee to conduct races
24 at a dual racetrack facility shall be conditioned on the organization
25 licensee's conducting horse races on not less than 20% of the annual
26 racing days granted the licensee by the commission. If an organi-
27 zation licensee fails to comply with such condition, the commission
28 shall revoke the organization licensee's license unless the licensee
29 demonstrates reasonable justification for the failure to complete the
30 facility.

31 (u) The refusal to renew an organization license shall be in ac-
32 cordance with the Kansas administrative procedure act and shall be
33 subject to review under the act for judicial review and civil enforce-
34 ment of agency actions.

35 (v) The grant or denial of an original organization license shall
36 not be subject to the Kansas administrative procedure act. Such
37 grant or denial shall be a matter to be determined in the sole
38 discretion of the commission, whose decision shall be final upon the
39 grant of a license to one of two or more competing applicants without
40 the necessity of a hearing on the denial of a license to each other
41 competing applicant. Any action for judicial review of such decision
42 shall be by appeal to the supreme court in accordance with the act
43 for judicial review and civil enforcement of agency actions, except

1 that the scope of review shall be limited to whether the action of
2 the commission was arbitrary or capricious or constituted an abuse
3 of discretion. All competing applicants for the organization license
4 shall be parties to such appeal. Any such appeal shall have priority
5 over other cases except those having statutory priority.

6 Sec. 6. K.S.A. 74-8814 is hereby amended to read as follows:
7 74-8814. (a) Subject to the provisions of subsection (b), the com-
8 mission shall establish by rules and regulations an application fee
9 not exceeding \$500 for any of the following which applies for an
10 organization license and the license fee for any of the following
11 granted an organization license shall be \$100 for each day of racing
12 approved by the commission:

13 (1) Any fair association, other than the Greenwood county and
14 Anthony fair associations, organized pursuant to K.S.A. 2-125 et
15 seq. and amendments thereto, any horsemen's nonprofit organi-
16 zation or the national greyhound association of Abilene, Kansas, if:
17 (A) Such association conducts not more than two race meetings each
18 year; (B) such race meets are held within the boundaries of the
19 county where the applicant is located; and (C) such race meetings
20 are held for a total of not more than 21 days per year; or

21 (2) the Greenwood county fair association or the Anthony fair
22 association a horsemen's nonprofit organization, with respect to race
23 meetings conducted by such association or organization at Eureka
24 Downs or Anthony Downs, respectively, or the Anthony fair as-
25 sociation or a horsemen's nonprofit organization, with respect to race
26 meetings conducted by such association or organization at Eureka
27 Downs Anthony Downs, for which the number of race meetings
28 and days, and the dates thereof, shall be specified by the commission.

29 (b) The application fee for a county fair association or horsemen's
30 nonprofit organization applying for an organization license to conduct
31 only harness horse races without parimutuel wagering shall be \$50
32 for each application, and no license fee shall be required of such
33 association for any day of a race meeting of less than 10 days of only
34 harness horse racing without parimutuel wagering.

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

39 (d) The Kansas bureau of investigation shall investigate:

40 (1) The president, vice-president, secretary and treasurer of a
41 county fair association, and such other members as the commission
42 considers necessary, to determine eligibility for an organization li-
43 cense;

(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.

(e) 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. 7. K.S.A. 1993 Supp. 74-8818 is hereby amended to read as follows: 74-8818. (a) The commission shall appoint three individuals to serve as full-time stewards or racing judges. 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 and shall be in the unclassified service under the Kansas civil service act. ~~Before July 1, 1994,~~ 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 at race meetings conducted by that organization licensee. Any moneys received by the commission for that purpose shall be remitted promptly by the commission to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to 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.

(c) The commission shall require ~~applicants~~ *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~~

1 *the commission finds equivalent to the examination given by the*
2 *commission.* Examinations shall be held at such times and places as
3 determined by the commission. Notice of the times and places of
4 the examinations shall be given as determined by the commission.
5 The commission shall prepare both written and oral examinations to
6 be taken by persons applying for licensure as stewards or racing
7 judges, requesting and taking into consideration suggestions from
8 representatives of horsemen and horsewomen, greyhound owners,
9 organization licensees, stewards, racing judges and other interested
10 and knowledgeable parties as to the content thereof.

11 (d) The commission may examine any person who:

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

14 (2) has completed an accredited senior high school or its equiv-
15 alent;

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

20 (4) has: (A) At least five years' experience in the horse or grey-
21 hound racing industry as a licensed trainer or jockey; (B) at least 10
22 years' experience in the horse or greyhound racing industry as a
23 licensed owner whose experience, knowledge, ability and integrity
24 relative to the industry are known to the commission; (C) at least
25 three years' experience as a licensed racing official, racing secretary,
26 assistant racing secretary or director of racing; or (D) experience in
27 the racing industry of a character and for a length of time sufficient,
28 in the opinion of the commission, to be substantially equivalent to
29 the experience requirement of subsection (d)(4)(A), (B) or (C).

30 (e) For the purpose of subsection (d)(4), one year's experience
31 shall mean at least 100 days actually worked within one calendar
32 year. An original license for a steward or racing judge issued pursuant
33 to the provisions of this act shall be issued for the calendar year in
34 which it is issued and shall be renewable for a period not to exceed
35 three years as established by rules and regulations of the commission.
36 The commission shall establish a license fee schedule consistent with
37 the different periods for which such licenses may be granted. The
38 license shall be valid at all race meetings in this state during the
39 period for which it is issued, unless it is suspended or revoked prior
40 to the expiration of such period.

41 Sec. 8. K.S.A. 74-8819 is hereby amended to read as follows:
42 74-8819. (a) Organizations licensed pursuant to K.S.A. 74-8813 or
43 74-8814, and amendments thereto, may conduct parimutuel wagering

1 on the results of horse and greyhound races held on dates and at
2 racetrack facilities approved by the commission and on simulcast
3 races as provided by K.S.A. 74-8836 *and amendments thereto*. All
4 persons participating in such wagering shall be present within the
5 confines of the approved racetrack facility.

6 (b) Organization licensees shall issue a ticket to each person plac-
7 ing a wager, which ticket shall show the date and number of the
8 race, the amount wagered and the number of the horse or greyhound
9 selected by the person. The licensee may receive wagers on horses
10 or greyhounds to finish first, second, third, fourth or any combination
11 thereof within the same race or among two or more live races con-
12 ducted or simulcast races displayed on the same day at the same
13 racetrack facility, as authorized by the commission.

14 (c) After wagering has been closed for each live race conducted
15 by the licensee, the organization licensee may deduct an amount
16 not exceeding 18% of the total wagered in each parimutuel pool and
17 the balance, less the breakage, shall be paid to holders of winning
18 tickets for that pool in accordance with procedures authorized by
19 the commission. The commission may authorize a higher amount not
20 exceeding 22% to be deducted from the total wagered in parimutuel
21 pools for multiple and exotic bets.

22 (d) From the amount deducted as provided in subsection (c), the
23 organization licensee shall pay the purses as provided in K.S.A. 74-
24 8820 and amendments thereto and the tax as specified in K.S.A.
25 74-8823 and amendments thereto. The balance of the amount de-
26 ducted shall be used for the purposes of the organization licensee
27 as such purposes have been represented to the commission.

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

31 (f) No organization licensee shall loan money or any other thing
32 of value to any person for the purpose of permitting that person to
33 wager on any race. *In accordance with written procedures that*
34 *comply with requirements established by rules and regulations of*
35 *the commission, an organization licensee may deduct from the wages*
36 *of a parimutuel teller the actual monetary shortages detected in the*
37 *organization licensee cashbox that is assigned to the teller.*

with the voluntary consent of a parimutuel teller

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

41 Sec. 9. K.S.A. 74-8836 is hereby amended to read as follows:
42 74-8836. (a) Any organization licensee that conducts at least 150 days
43 of live racing during a calendar year or a county fair association that

1 conducts fewer than 22 days of live racing during a calendar year
2 may apply to the commission for a simulcasting license to display
3 simulcast horse or greyhound races and to conduct intertrack pari-
4 mutuel wagering thereon. If the organization licensee conducts races
5 at a racetrack facility that is owned by a facility owner licensee, both
6 licensees shall join in the application. A simulcasting license granted
7 to a ~~county~~ fair association that conducts fewer than 22 days of live
8 racing shall restrict the ~~county~~ fair association's display of simulcast
9 races to a number of days, including days on which it conducts live
10 ~~horse~~ races, equal to not more than twice the number of days on
11 which it conducts live races.

12 (b) (1) A simulcasting license granted to an organization licensee
13 other than a ~~county~~ fair association shall authorize the display of
14 simulcast races at the racetrack facility where the live races are
15 conducted. If a simulcasting licensee conducts live horse races on a
16 day when simulcast races are displayed by the licensee and the
17 licensee conducts fewer than 10 live horse races on such day, not
18 less than 80% of the races on which wagers are taken by the licensee
19 during such day shall be live races conducted by the licensee. If a
20 simulcast licensee conducts live greyhound races on a day when
21 simulcast races are displayed by the licensee and the licensee con-
22 ducts fewer than 13 live greyhound races during a performance on
23 such day, not less than 80% of the races on which wagers are taken
24 by the licensee during such performance shall be live races conducted
25 by the licensee.

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

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

1 organization licensee.

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

8 (5) Notwithstanding the provisions of subsection (b)(1), the com-
9 mission may authorize the licensee to display simulcast special racing
10 events as designated by the commission.

11 (c) The application for a simulcasting license shall be filed with
12 the commission at a time and place prescribed by rules and regu-
13 lations of the commission. The application shall be in a form and
14 include such information as the commission prescribes.

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

16 (1) Comply with the interstate horse racing act of 1978 (15 U.S.C.
17 3001 *et seq.*) as in effect December 31, 1991;

18 (2) submit with the application a written approval of the proposed
19 simulcasting schedule signed by: (A) The recognized horsemen's
20 group for the track, if the applicant is licensed to conduct only horse
21 races; (B) the recognized greyhound owners' group, if the applicant
22 is licensed to conduct only greyhound races and only greyhound
23 races are to be simulcast; (C) both the recognized greyhound owners'
24 group and a recognized horsemen's group, if the applicant is licensed
25 to conduct only greyhound races and horse races are to be simulcast;
26 (D) the recognized greyhound owners' group, if the applicant is
27 licensed to conduct both greyhound and horse races, only greyhound
28 races are to be simulcast and races are to be simulcast only while
29 the applicant is conducting live greyhound races; (E) the recognized
30 horsemen's group for the track, if the applicant is licensed to conduct
31 both greyhound and horse races, only horse races are to be simulcast
32 and races are to be simulcast only while the applicant is conducting
33 live horse races; or (F) both the recognized greyhound owners' group
34 and the recognized horsemen's group for the track, if the applicant
35 is licensed to conduct both greyhound races and horse races and
36 horse races are to be simulcast while the applicant is conducting
37 live greyhound races or greyhound races are to be simulcast while
38 the applicant is conducting live horse races; and

39 (3) submit, in accordance with rules and regulations of the com-
40 mission and before the simulcasting of a race, a written copy of each
41 contract or agreement which the applicant proposes to enter into
42 with regard to such race, and any proposed modification of any such
43 contract or agreement.

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

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

9 (g) Except as provided by subsection (j), the takeout for simulcast
10 horse and greyhound races shall be the same as it is for the live
11 horse and greyhound races conducted during the current or next
12 live race meeting at the racetrack facility where the simulcast races
13 are displayed. For simulcast races the tax imposed on amounts wa-
14 gered shall be as provided by K.S.A. 74-8823 and amendments
15 thereto. The simulcasting licensee shall be entitled to retain sufficient
16 revenue to pay expenses directly related to the simulcast race or
17 performance. The commission, by rules and regulations, shall define
18 what constitutes such expenses. Of the balance of the takeout re-
19 maining after deduction of taxes and expenses, 50% shall be paid to
20 the simulcasting licensee. The remainder shall be used for purses,
21 as follows:

22 (1) For purses for greyhound races conducted by the licensee,
23 if the simulcast race is a greyhound race and the licensee conducts
24 only live greyhound races;

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

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

32 (4) for purses, as determined by both the recognized horsemen's
33 group and the recognized greyhound owners' group, if the simulcast
34 is a horse race and the licensee does not conduct or is not currently
35 conducting live horse races.

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

37 (1) If a simulcasting licensee has a license to conduct live horse
38 races and the licensee displays a simulcast horse race, breakage and
39 unclaimed winning ticket proceeds shall be distributed in the manner
40 provided by K.S.A. 74-8821 and 74-8822, and amendments thereto,
41 for breakage and unclaimed winning ticket proceeds from live horse
42 races.

43 (2) If a simulcasting licensee has a license to conduct live grey-

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1 hound races and the licensee displays a simulcast greyhound race,
2 breakage and unclaimed winning ticket proceeds shall be distributed
3 in the manner provided by K.S.A. 74-8821 and 74-8822, and amend-
4 ments thereto, for breakage and unclaimed winning ticket proceeds
5 from live greyhound races.

6 (3) If a simulcasting licensee has a license to conduct live racing
7 of only horses and the licensee displays a simulcast greyhound race,
8 unclaimed winning ticket proceeds shall be distributed in the manner
9 provided by K.S.A. 74-8822, and amendments thereto, for unclaimed
10 winning ticket proceeds from live greyhound races. Breakage for
11 such races shall be distributed for use to benefit greyhound racing
12 as determined by the commission.

13 (4) If a simulcasting licensee has a license to conduct live racing
14 of only greyhounds and the licensee displays a simulcast horse race,
15 breakage and unclaimed winning ticket proceeds shall be distributed
16 in the manner provided by K.S.A. 74-8821 and 74-8822, and amend-
17 ments thereto, for breakage and unclaimed winning ticket proceeds
18 from live horse races.

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

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

25 (2) If a licensee participates in an interstate pool, the licensee
26 may adopt the takeout of the host jurisdiction or facility, except that
27 the takeout shall not be more than 20% on win, place and show
28 bets and not more than 25% on all other bets. The amount and
29 manner of paying purses from the takeout in an interstate pool shall
30 be as provided by subsection (g).

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

36 (4) Breakage for interstate combined wagering pools shall be cal-
37 culated in accordance with the statutes and rules and regulations of
38 the host jurisdiction and shall be allocated among the participating
39 jurisdictions in a manner agreed to among the jurisdictions. Breakage
40 allocated to this jurisdiction shall be distributed as provided by sub-
41 section (h).

42 (5) Upon approval of the respective recognized greyhound own-
43 ers' group or recognized horsemen's group, the commission may

1-28

1 permit an organization licensee to simulcast to other racetrack fa-
2 cilities or off-track wagering or intertrack wagering facilities in other
3 jurisdictions one or more races conducted by such licensee, use one
4 or more races conducted by such licensee for an intrastate combined
5 wagering pool or use one or more races conducted by such licensee
6 for an interstate combined wagering pool at off-track wagering or
7 intertrack wagering locations outside the commission's jurisdiction
8 and may allow parimutuel pools in other jurisdictions to be combined
9 with parimutuel pools in the commission's jurisdiction for the purpose
10 of establishing an interstate combined wagering pool.

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

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

17 Sec. 10. K.S.A. 74-8837 is hereby amended to read as follows:
18 74-8837. (a) No organization licensee or facility manager licensee
19 shall permit any business not owned and operated by the organization
20 licensee to provide ~~totalisator~~ equipment or services *integral rac-*
21 *ing or wagering equipment or services, as designated by the com-*
22 *mission*, to an organization licensee unless such business has been
23 issued a ~~totalisator racing or wagering equipment or services~~ license
24 by the commission. *Such equipment and services include but are*
25 *not limited to totalisator, photo finish, video replay and video re-*
26 *ception and transmission equipment or services.*

27 (b) Businesses required to be licensed pursuant to this section
28 shall apply for ~~totalisator racing or wagering equipment or services~~
29 licenses in a manner and upon forms prescribed and furnished by
30 the commission. The commission shall require disclosure of infor-
31 mation about the owners and officers of each applicant and may
32 require such owners and officers to submit to fingerprinting. The
33 commission also may require disclosure of information about and
34 fingerprinting of such employees of each applicant as the commission
35 considers necessary. ~~Totalisator Racing or wagering equipment or~~
36 ~~services~~ licenses shall be issued for a period of time established by
37 the commission but not to exceed 10 years. The commission shall
38 establish a schedule of application fees and license fees for ~~totalisator~~
39 ~~racing or wagering equipment or services~~ licenses based upon the
40 type and size of business. The application fee shall not be refundable
41 if the business fails to qualify for a license. If the application fee is
42 insufficient to pay the reasonable expenses of processing the appli-
43 cation and investigating the applicant's qualifications for licensure,

1-30

1 the commission shall require the applicant to pay to the commission,
2 at such times and in such form as required by the commission, any
3 additional amounts necessary to pay such expenses. No license shall
4 be issued to an applicant until the applicant has paid such additional
5 amounts in full, and such amounts shall not be refundable except
6 to the extent that they exceed the actual expenses of processing the
7 application and investigating the applicant's qualifications for licen-
8 sure.

9 (c) The commission may require applicants as a condition of li-
10 censure to consent to allow agents of the Kansas bureau of inves-
11 tigation or security personnel of the commission to search without
12 warrant the licensee's premises and personal property and the per-
13 sons of its owners, officers and employees while engaged in the
14 licensee's business within the racetrack facility or adjacent facilities
15 under the control of the organization licensee for the purpose of
16 investigating criminal violations of this act or violations of rules and
17 regulations of the commission.

18 (d) Denial of a ~~totalisator~~ *totalisator racing or wagering equipment or serv-*
19 *ices* license by the commission shall be in accordance with the Kansas
20 administrative procedure act. The commission may refuse to issue
21 a ~~totalisator~~ *totalisator racing or wagering equipment or services* license to
22 any business if any person having an ownership interest in such
23 business, any person who is an officer of such business or any person
24 employed by such business within the racetrack facility:

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

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

34 (3) fails to disclose any material fact or provides information,
35 knowing such information to be false, in connection with the ap-
36 plication for the license; or

37 (4) has been found by the commission to have violated any pro-
38 vision of this act or any rule and regulation of the commission.

39 (e) The commission may suspend or revoke the ~~totalisator~~ *totalisator racing*
40 *or wagering equipment or services* license of any business for any
41 reason which would justify refusal to issue such a license. Proceedings
42 to suspend or revoke such license shall be conducted by the com-
43 mission or its appointed hearing officer in accordance with the pro-

visions of the Kansas administrative procedure act.

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

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

Sec. 11. 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 ~~county fair horse~~ fair racing benefit fund, which is hereby created in the state treasury.

horse

(b) Moneys in the ~~county fair horse~~ fair racing benefit fund shall be expended only for:

horse

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

as established by rules and regulations of the commission

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

(3) paying the costs of background investigations of members of county fair associations that are 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 county fair associations a fair association or horsemen's nonprofit organization;

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

(6) costs to organization licensees that are county fair associations for employment of key racing officials, as determined by

1 (c) The commission shall adopt rules and regulations establishing
 2 procedures for distributing moneys in the ~~county fair horse fair~~ horse
 3 racing benefit fund to ~~county fair associations and nonprofit horse-~~
 4 ~~men's organizations~~ for the purposes provided by this section.

5 (d) Expenditures from the ~~county fair horse fair~~ horse racing benefit
 6 fund related to the conduct of a race meeting shall not be allocated
 7 to any ~~county fair association organization licensee~~ for a period
 8 exceeding 21 days.

(f) ~~(e)~~ Expenditures from the ~~county fair horse fair~~ horse racing benefit
 10 fund shall be made in accordance with appropriation acts upon war-
 11 rants of the director of accounts and reports issued pursuant to
 12 vouchers approved by the chairperson of the commission or a person
 13 designated by the chairperson.

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

16 New Sec. 12. On the effective date of this act, the director of
 17 accounts and reports shall transfer all moneys in the county fair horse
 18 horse racing benefit fund to the ~~fair racing benefit fund~~. On the
 19 effective date of this act, all liabilities of the county fair horse racing
 20 benefit fund are hereby imposed on the fair racing benefit fund and
 21 the county fair horse racing benefit fund is hereby abolished.

22 Sec. 13. K.S.A. 74-8801, 74-8802, 74-8813, 74-8814, 74-8819, 74-
 23 8836, 74-8837 and 74-8838 and K.S.A. 1993 Supp. 74-8804, 74-8810
 24 and 74-8818 are hereby repealed.

25 Sec. 14. This act shall take effect and be in force from and after
 26 its publication in the Kansas register.

(e) 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.

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Kansas Racing Commission
Ratio of Shortages to Handle
Kansas City & Wichita Tracks

<u>Kansas City</u>	<u>Shortages</u>	<u>Handle</u>	<u>Ratio</u>
1989	16,500	65,458,000	0.025%
1990	12,100	197,363,000	0.006%
1991	5,300	169,740,000	0.003%
1992	10,100	170,058,000	0.006%
1993	16,000	168,663,000	0.009%
 <u>Wichita</u>			
1992	3,024	69,648,000	0.004%
1993	1,852	66,562,000	0.003%

F&SA
2-24-94
Atch #2

TO: The Honorable Clyde Graeber, Chairperson
House Committee on Federal and State Affairs

FROM: Don Bird
Kansans For Life At Its Best

DATE: February 24, 1994

RE: House Bill No. 3020

I appear before the committee today on behalf of Kansans For Life At Its Best as a proponent of House Bill No. 3020.

Reported consumption rates among minors and underage drinkers continue to remain at unacceptable levels. As indicated by the US Department of Health and Human Services in surveys and research (the results of which I have previously submitted):

Approximately 7% of the nation's eighth graders, 18% of tenth graders, and 30% of twelfth graders were drunk in the month previous.

41% of college students had "binged" (consuming five or more drinks in a row on a single occasion) on alcohol during the past two weeks.

Junior/middle and senior high school students drink 35% of all wine coolers sold in the United States.

Almost half of college students who said they had been victims of crime admitted they had used drugs or alcohol before the crime occurred.

Researchers estimate that alcohol use is implicated in one-to two-thirds of sexual assault and acquaintance or "date" rape cases among teens and college students.

Almost one-third of youth under 18 in long-term, state-operated juvenile institutions in 1987 were under the influence of alcohol at the time of arrest.

Access to alcoholic beverages for underage users seems to be no problem as 2/3 of them report they can buy their own. When they can't, it is unreasonable to assume that it appears out of thin air -- someone is supplying it. This bill attempts to address the problem through the initiation of a simple record-keeping procedure on the part of retailers.

Any efforts that assist in discovering the person or persons who act irresponsibly in providing alcoholic beverages for illegal usage are to be commended. Therefore, we lend our support to House Bill 3020.

F25A
2-24-94
Atch #3



Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (913) 271-7525 • 1 (800) 228-6233

KANSAS STATE OFFICE

Chairperson Graeber and Members of the Committee:

We are here today seeking support for HB 3020, also known as "Keg Registration" legislation, which establishes a means of identification of those who purchase kegs of beer. Those retailers and purchasers who are in compliance with the sale or purchase of kegs will not be adversely affected by this proposed legislation.

However, our organization frequently receives calls and letters from concerned citizens, frightened parents and angry school administrators and teachers who question the easy access teenagers have to alcoholic beverages for parties.

MADD's involvement and concern is heightened when these young party-goers leave the party and drive on our streets and highways. Approximately 26% of all fatal traffic crashes involving drivers ages 15-17 and 46% of drivers ages 18-20 are alcohol-related. Seventy-five percent of those drivers ages 15-17 and 85% of those drivers 18-20 involved in alcohol-related fatal traffic crashes are drinking drivers. In 1992, 2,250 individuals under the age of 21 were arrested for DUI in Kansas.

It is an undisputed fact that there is an overall positive relationship between availability and underage substance use. The drugs perceived to be most readily available are the ones that are used most frequently and those that are believed to be less available are less frequently consumed. This relationship between availability and consumption has been clearly demonstrated by the reduction in drinking and driving crashes and consumption during the time states enacted the Age 21 laws. In those states that had Age 21 laws in place, adolescents were more likely to be abstainers and less likely to be heavy drinkers. It stands to reason that if alcoholic beverage availability were restricted, consumption would be lower.

Keg beer is a prevalent source of alcohol for minors, and keg parties expose large numbers of minors to the availability of alcohol at any one given time, as substantiated in the attached survey of Kansas law enforcement agencies. In this survey, 102 law enforcement agencies identified keg parties involving minors as a significant problem in their jurisdiction. One hundred five law enforcement agencies felt that a keg registration law would provide an effective deterrent to illegal sales and purchases of keg beer and its distribution to minors for consumption.

FISA
2-24-99
Atch #4

It is imperative to provide a means of identifying or "tracking" those irresponsible adults who are purchasing alcohol for underage drinkers as well as those purchasers, still under the age of majority themselves, who are purchasing alcohol with the use of fake ID's.

MADD has been a proponent of keg registration legislation for the last several years. It is MADD's belief that such legislation would reinforce the efforts of the Kansas Alcohol Beverage Control in their endeavor to deter illegal sales, purchases, and consumption of keg beer by minors. Our goal as an organization is to promote laws which increase safety on our streets and highways, support legislation that affects the health and well-being of our youth, and provide programs that will deter driving after drinking and develop skills for their adult years.

Kansas MADD supports HB 3020 and would appreciate your support of this legislation.

February 24, 1994

KEG REGISTRATION SURVEY RESULTS

SURVEY PARTICIPANTS - SURVEYS MAILED TO:

247	Police Depts.
<u>105</u>	Sheriff Depts.
352	Total Surveys

Date Survey Mailed - Police (week of 12/27/93)
Sheriff (week of 01/03/94)

Deadline for Responses - 01/15/94

Total No. of Agencies Responding as of 01/25/94: 128 - 36%

Survey Questions and Responses:

1. Do you feel an identifiable problem exists in your jurisdiction regarding "keg parties" involving minors?

Agencies reporting yes	102	80%
Agencies reporting no	25	19%
Agencies - no response	<u>1</u>	<u>1%</u>
Total agencies	128	100%

2. Please estimate the number of times your agency intervened or had knowledge of "keg parties" involving minors during 1993.

Agencies reporting estimates	103	80%
Agencies reporting no estimates	<u>25</u>	<u>20%</u>
Total agencies	128	100%
Total estimate range - Low estimate	1798	times
High estimate	1956	times

3. Please estimate the total number of kegs observed or confiscated at "keg parties" in which your agency intervened or had knowledge of during 1993.

Agencies reporting estimates	88	69%
Agencies reporting no estimates	<u>40</u>	<u>31%</u>
Total agencies	128	100%
Total estimate range - Low estimate	950	kegs
High estimate	992	kegs

4. Please estimate the total number of minors present at all "keg parties" your agency had knowledge of during 1993.

Agencies reporting estimates	98	77%
Agencies reporting no estimates	<u>30</u>	<u>23%</u>
Total agencies	128	100%
Total estimate range - Low estimate	21,534 minors	
High estimate	26,199 minors	
(Figures do not represent unduplicated participants)		

5. Do you feel that a "Keg Registration" law would provide an effective deterrent to illegal sales/purchases of keg beer and its distribution to minors for consumption?

Agencies reporting yes	105	82%
Agencies reporting no	17	13%
Agencies reporting possibly	6	5%

KEG REGISTRATION QUESTIONNAIRE

1. DO YOU FEEL AN IDENTIFIABLE PROBLEM EXISTS IN YOUR JURISDICTION REGARDING "KEG PARTIES" INVOLVING MINORS?

YES!

2. PLEASE ESTIMATE THE NUMBER OF TIMES YOUR AGENCY INTERVENED OR HAD KNOWLEDGE OF "KEG PARTIES" INVOLVING MINORS DURING 1993.

APPROX. 200-250 TIMES

3. PLEASE ESTIMATE THE TOTAL NUMBER OF KEGS OBSERVED OR CONFISCATED AT KEG PARTIES IN WHICH YOUR AGENCY INTERVENED OR HAD KNOWLEDGE OF DURING 1993.

10

4. PLEASE ESTIMATE THE TOTAL NUMBER OF MINORS PRESENT AT ALL KEG PARTIES YOUR AGENCY HAD KNOWLEDGE OF DURING 1993.

1000-1500

5. DO YOU FEEL THAT A KEG REGISTRATION LAW WOULD PROVIDE AN EFFECTIVE DETERRENT TO ILLEGAL SALES AND PURCHASES OF KEG BEER AND ITS DISTRIBUTION TO MINORS FOR CONSUMPTION?

YES!

Please return to Kansas MADD by January 15, 1994
3601 SW 29th St.
Topeka, Kansas 66614
1-800 228-6233

KEG REGISTRATION QUESTIONNAIRE

1. DO YOU FEEL AN IDENTIFIABLE PROBLEM EXISTS IN YOUR JURISDICTION REGARDING "KEG PARTIES" INVOLVING MINORS?

Yes. During warm weather very large parties are held in our county along the river and Milford Lake areas.

2. PLEASE ESTIMATE THE NUMBER OF TIMES YOUR AGENCY INTERVENED OR HAD KNOWLEDGE OF "KEG PARTIES" INVOLVING MINORS DURING 1993.

Between April and September one or two a week. We recognize that there are many we never hear about.

3. PLEASE ESTIMATE THE TOTAL NUMBER OF KEGS OBSERVED OR CONFISCATED AT KEG PARTIES. IN WHICH YOUR AGENCY INTERVENED OR HAD KNOWLEDGE OF DURING 1993.

20

4. PLEASE ESTIMATE THE TOTAL NUMBER OF MINORS PRESENT AT ALL KEG PARTIES YOUR AGENCY HAD KNOWLEDGE OF DURING 1993.

300

5. DO YOU FEEL THAT A KEG REGISTRATION LAW WOULD PROVIDE AN EFFECTIVE DETERRENT TO ILLEGAL SALES AND PURCHASES OF KEG BEER AND ITS DISTRIBUTION TO MINORS FOR CONSUMPTION?

Prosecution is presently very difficult because the adult who purchased the keg got his money and there is no way to trace the keg. It is common to have both adults and minors present at these parties with no one admitting ownership of the kegs. We feel this law could have the greatest impact of any recent law at controlling this problem.

Please return to Kansas MADD by January 15, 1994
3601 SW 29th St.
Topeka, Kansas 66614
1-800 228-6233

KEG REGISTRATION QUESTIONNAIRE

1. DO YOU FEEL AN IDENTIFIABLE PROBLEM EXISTS IN YOUR JURISDICTION REGARDING "KEG PARTIES" INVOLVING MINORS?

Yes.

2. PLEASE ESTIMATE THE NUMBER OF TIMES YOUR AGENCY INTERVENED OR HAD KNOWLEDGE OF "KEG PARTIES" INVOLVING MINORS DURING 1993.

At least 100 parties per year of which we are aware.

3. PLEASE ESTIMATE THE TOTAL NUMBER OF KEGS OBSERVED OR CONFISCATED AT KEG PARTIES IN WHICH YOUR AGENCY INTERVENED OR HAD KNOWLEDGE OF DURING 1993.

Less than 10 confiscated, but approximately 150 kegs observed.

4. PLEASE ESTIMATE THE TOTAL NUMBER OF MINORS PRESENT AT ALL KEG PARTIES YOUR AGENCY HAD KNOWLEDGE OF DURING 1993.

In the area of 2,000 minors at the parties. This is a misleading figure since many minors attend parties throughout the year.

5. DO YOU FEEL THAT A KEG REGISTRATION LAW WOULD PROVIDE AN EFFECTIVE DETERRENT TO ILLEGAL SALES AND PURCHASES OF KEG BEER AND ITS DISTRIBUTION TO MINORS FOR CONSUMPTION?

This would at least identify the person and store facilitating the party. It would provide a means of enforcing existing laws by significantly increasing accountability.

Please return to Kansas MADD by January 15, 1994
3601 SW 29th St.
Topeka, Kansas 66614
1-800 228-6233

TO WHOM IT MAY CONCERN;

I have received this questionnaire from MADD Kansas and do not feel that we can provide this information at this time, due to non-availability of those type of records.

However I would like to respond from experience and not from actual records.

1. We do without a doubt have a problem with keg parties within our jurisdiction.
2. I am unable to give you a number from our records, but can tell you that if the weather permits we have at least one key party every Friday and Saturday night. If you need an estimate of the number of times that we have to intervene or have knowledge, it would be at least 200 times a year.
3. We normally will see at least two kegs, and have had as many as 12-15 at one party.
4. I would estimate the number of minors, (under 21) at these keg parties to be between 10% to 80% of the crowd, depending on how large it is.
5. I feel it would be a step in the right direction. I feel that the seller is only concerned with the fact that he is selling to a legal aged person. That person is only concerned with getting his money back. There appears to be no concern at these levels for control of the beverage.

I am answering this questionnaire in this manner, because I cannot give the answers I'm sure you would like. I do however feel very strongly about the drinking problem in our community.

I am _____, _____ for the _____ Police Department, _____, Kansas. I would appreciate it if for the questionnaire purposes, that you not use my department or name. The reason I have provided them, is because we have a special problem here due to _____, and the fact that about 75% of the people involved in these institutions are under legal drinking age. We work very hard at enforcing the laws in the licensed establishments, which only increase the use of Keg Parties.

You have my name, and you can contact me at _____ if I can be of any assistance on any aspect of the minors and underage drinking problems.

I would suggest that it will be hard to reduce drinking and driving, as long as anyone can pull up and fill up their gas tank, and beer cooler at the same time. I would personally like to see some separation in these two functions of at least 200 yards.

Testimony
House Federal State Affairs Committee
February 24, 1994

House Bill 3020

Good afternoon, Mr. Chairman and Members of the Committee:

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association, the Kansas Alcoholism and Drug Addiction Counselors Association and the Kansas Association of Alcohol and Drug Program Directors. Our organizations provide services for those individuals who are seeking information and education or prevention and treatment of the disease of alcohol and or drug addiction.

House Bill 3020 is another method to control the flow of intoxicating beverages to those persons under the legal age of consumption. We are now approaching the springtime of the year which normally brings about many parties when certain adults will sponsor and furnish alcohol to those persons under age 21. Most of these parties are referred to as keg parties and for the most part are in conjunction with end of the school year celebrations.

We know that this would put an added burden on those retailers who are selling kegs to qualified purchasers to keep up this book work and provide a tag for the keg. However, we feel it is good public policy on their part to be part of the team to help to help reduce the flow of intoxicating beverages to our underage individuals.

The Alcohol and Drug Abuse section of the Social and Rehabilitation Services, by their 1993 survey, indicates over 10% of Kansas students, thru the twelfth grade, use alcoholic beverages on a regular basis. The same survey would indicate that over 50% of those students, thru the twelfth grade, have on occasion used alcoholic beverages. We know that if we had surveys from ages of 18 to 21, the usage of alcohol on a regular basis would be considerably higher. We also know that young people who initiate alcohol use before age 15 are at twice the risk of having alcohol problems than those that wait until after age 19.

FASA
2-24-94
Atch #5

Testimony
House Bill 3020
February 24, 1994
page 2

We think that House Bill 3020 is a positive step in eliminating the illegal consumption of alcohol by those underage individuals in the State of Kansas. It is also an excellent tracking devise for our Alcohol Beverage Control people and local law enforcements to determine who purchased this alcohol when it is found to be given away or sold to underage individuals.

We hope that this Committee will pass favorably on this legislation and send it on its way for passage during the Year of 1994.

Thank you. I will attempt to answer any questions at this time.

Respectfully submitted,



Gene Johnson
Legislative Liaison
Kansas Alcoholism and Drug Addiction Counselors Association
Kansas Association of Alcohol and Drug Program Directors
Kansas Community Alcohol Safety Action Project Coordinators Association



Statement on HB 3020
By Neal Whitaker
Kansas Beer Wholesalers Association
February 24, 1994

Mr. Chairman and Members of the House Federal and State Affairs Committee:

I appear in opposition to House Bill 3020. We believe that this legislation creates an unnecessary and complicated system of paperwork that will provide little or no benefit to law enforcement.

Current law requires that purchasers of beer or Cereal Malt Beverage be at least 21 years of age. If there is any doubt about the age of the purchaser the licensee is expected to check an ID.

Once again, all the responsibility is placed on the retailer. Most, if not all, retailers do attempt to comply with the laws passed by this legislature; however, this bill will not stop underage persons from consuming or buying beer. If one's intent is to supply beer to minors, that person will simply use a readily available fake ID to make the purchase. The state has based compliance with the law on an easily alterable form of identification. Until this issue is addressed there will always be fraudulent purchases, making keg registration a pointless exercise and making retailers liable for the actions of another based on the quality of their fake ID.

There are more than 450,000 quarter and half barrel kegs sold in Kansas every year, most of which go to licensed private clubs, public drinking establishments, and taverns. We are unable to establish exactly how many kegs are sold to private citizens, but let's assume 15% of the total or 67,500 kegs. That means this bill creates 67,500 new records that in most cases will be of little value to anyone.

Six gallons of beer is slightly less than 3 cases of 12 ounce containers which means the kids will simply switch to buying cases instead of kegs. To most kids today cost appears to be no object. So, purchases will be made in smaller packages. Does this mean the next step is to record the name of every person who purchases 3 cases?

(over, please)

Keg registration is one more simplistic solution to a problem that is much more complicated. This committee has struggled with penalties for sales to minors and the ridiculous situation in which the state finds itself in telling adults that they cannot legally consume 3.2 beer unless their parent provides it for them. Out of all the attempts to control illegal or abusive use of alcohol only one seems to have a lasting effect. No, it is not harsher penalties for violations. It is, in fact, the main theme of the 1983 President's Commission on Drunk Driving, **education**.

TESTIMONY PRESENTED
TO THE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Re: HB 3020

FEBRUARY 24, 1994

by Rebecca Rice, Legislative Counsel to the
Kansas Retail Liquor Dealers Association

Thank you, Mr. Chairman and members of the committee. I appear before you today on behalf of the Kansas Retail Liquor Dealers Association in opposition to HB 3020.

We have appeared in front of this committee opposing similar legislation in years past. This legislation requires a retailer to place an identification number on any beer container having a capacity of six or more gallons-basically a keg of beer. The objectionable part of the amendment is the requirement that the retailer or an employee must record, at the time of sale, the identification number; the date of sale; the purchaser's name, address and signature; and the number from the photo identification presented. The record of the transaction must be maintained for not less than six months.

The rationale is that such record will enable law enforcement officers to locate any individual who purchases a keg of beer for consumption. Although this rationale may seem logical, retailers are extremely concerned about the increasing efforts by this Legislature to move them into a "policing role". Kansas retail liquor dealers are not law enforcement officers and should not be required to operate their business and subject themselves to greater civil liability for the convenience of law enforcement.

The civil liability consequences of this amendment, coupled with the extremely punitive nature of the sanctions imposed by this bill for violation, render this legislation completely unacceptable to the Kansas Retail Liquor Dealers Association. Additionally, we are concerned this legislation could be used to argue retailers should be held liable under a "dram shop-type" theory. In other words, if the dealer "should have known" that the keg was being purchased by an individual for possible illegal consumption, this legislation can be utilized to show the legislature intends for liability to accrue to the individual retailer.

If a false I.D. is used, it will be untraceable. What are the civil consequences of the false identifications? What is the burden of proof in estimating an I.D. was accepted if it is untraceable? What is the liability for a clerk making a recording error?

The threat of civil litigation coupled with the automatic five-day suspension of the retailer's license indicate the true purpose of the amendment: to eliminate the sale of kegs to individuals other than taverns or other liquor by the drink establishments.

If anyone believes that minors will simply stop having parties where alcohol is served due to restrictions placed on kegs, I can tell you that most minors are not so easily dissuaded. Most individuals under the age of 21 can figure out that beer is sold in other containers. Or, even worse, that neither the risk nor the cost is any greater for purchasing or securing the purchase of stronger beverages.

We do not understand how this is going to influence the consumption of alcohol. Of course, it should assist in raising insurance rates and increasing litigation.

Mr. Chairman, thank you for allowing me to testify. We respectfully request that this committee defeat this legislation.

F45A
2-24-94
Atch #7