

CHAPTER 200**(HB 226)**

AN ACT relating to gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 238.505 is amended to read as follows:

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

- (1) "Department" means the Department of Charitable Gaming within the Public Protection Cabinet;
- (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. "Charitable gaming" shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;
- (3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;
- (4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;
- (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, or electronic pulltab device representations thereof, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. "Charity game ticket" shall include pulltabs, both paper and electronic representations thereof;
- (6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;
- (7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;
- (8) "Charity fundraising event" means an activity of limited duration at which games of chance approved by the department are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions, bazaars, and banquets. For the purposes of this subsection, "banquet" shall mean a formal meal or feast held by a charitable organization for community, social, or entertainment purposes apart from charitable gaming;
- (9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:
 - (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
 - (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;
- (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:
 - (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and

- (b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the department.
- (11) "Charitable gaming facility" means *the premises on which charitable gaming is conducted*~~[a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations, other than itself, during a one (1) year period for the conduct of charitable gaming];~~
- (12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;
- (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;
- (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;
- (15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;
- (16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;
- (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the department;
- (18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;
- (19) "Session" or "bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;
- (20) "Immediate family" means:
- (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses;
- (21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;
- (22) "Secretary" means the secretary of the Public Protection Cabinet;
- (23) "Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection Cabinet;
- (24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(13)(g);
- (25) "Year" means calendar year except as used in subsection (11) of this section and KRS 238.535(11), 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year; and
- (26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device;

- (27) "Electronic pulltab device" means an electronic device used only for charitable gaming to facilitate the play of an electronic pulltab. An electronic pulltab device shall be a tablet or other personal computing device, other than a mobile phone or similar handheld device, as approved by the department. An electronic pulltab device may only operate on a closed network or intranet that is confined to the licensee's premises, and shall not be Internet accessible by patrons, but shall be connected to a central server system solely for the purposes of monitoring, reporting, accounting, and software maintenance. An electronic pulltab device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device; and
- (28) "Electronic video gaming device," as used in this chapter and the related administrative regulations, means any device that possesses a video display and computer mechanism for playing a game. Electronic video gaming device shall not mean any electronic representation of charitable gaming games identified, defined, and approved by statute and by administrative regulation of the department.

➔Section 2. KRS 238.536 is amended to read as follows:

- (1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the benefits or financial gain of an individual. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. The following fees and taxes shall be excluded from the calculation of the percentage retained, retroactive to calculations made for calendar year 1999:
- (a) All fees paid to the department during the calendar year;
 - (b) Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies and equipment that are paid by a licensed charitable organization during the calendar year; and
 - (c) Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a licensed charitable organization during the calendar year.
- (2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:
- (a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of six (6) months and shall be required to submit to the department an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the calendar year in which the probation is imposed;
 - (b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall be placed on probation for a period of one (1) year and shall be required to submit to the department a financial plan as described in paragraph (a) of this subsection. The department shall conduct a six (6) month review of the charitable gaming activities of a licensee placed on probation pursuant to this subsection to evaluate the licensee's compliance with its financial plan;
 - (c) If the percentage retained falls between twenty-nine and nine-tenths percent (29.9%) and twenty-five percent (25%), the licensee shall be placed on probation for a period of one (1) year, shall submit to the department an acceptable financial plan as described in paragraph (a) of this subsection, and shall participate in a mandatory training program designed by the department. The department shall conduct a quarterly review of the licensee's activities to evaluate the licensee's compliance with its financial plan and its progress toward achievement of the forty percent (40%) threshold during the probationary period;

- (d) If the percentage falls below twenty-five percent (25%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive calendar year, the licensee shall have its license suspended for a period of one (1) year; and
 - (e) For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of probation and suspension shall commence, unless appealed, from the date the department notifies the licensee of its failure to satisfy the retention requirement for the previous calendar year. If a probation or suspension is appealed, the action shall commence on the date final adjudication of the matter is complete.
- (3) Any licensee that has had its license suspended under the provisions of subsection (2)(d) of this section shall be required to submit to the department an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license. As a condition of reinstatement, the licensee shall be on probation for a period of one (1) year and shall be subject to quarterly review by the department in accordance with subsection (2)(c) of this section.
- ~~{(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke, suspend, or deny its license for failure to meet the forty percent (40%) retention threshold prior to July 14, 2000, may petition the department for reconsideration of its action or proposed action. Upon petition for reconsideration, the department shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The department shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.}~~

➔Section 3. KRS 238.555 is amended to read as follows:

- (1) (a) No person *or organization* shall operate a charitable gaming facility unless the person *or organization* is licensed under the provisions of this chapter, ***except that facilities that are utilized by two (2) or fewer charitable organizations for the purpose of conducting charitable gaming, and facilities that only host charity fundraising events, shall be exempt from licensure.***
 - (b) The department shall charge a license fee not to exceed two thousand five hundred dollars (\$2,500). Specific license fees to be charged shall be:
 - 1. Prescribed in a graduated scale promulgated by administrative regulation; and
 - 2. Based on the number of sessions which the facility holds per week or other applicable factors or combination of factors.
 - (c) Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.
- (2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:
- (a) The address of the facility;
 - (b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;
 - (c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;
 - (d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;
 - (e) A copy of the lease agreement used by the applicant; and
 - (f) Any other information the department deems appropriate.
- (3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:
- (a) Manage or otherwise be involved in the conduct of charitable gaming;
 - (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
 - (c) Handle any moneys generated in the conduct of charitable gaming;

- (d) Advise a licensed charitable organization on the expenditure of net receipts;
 - (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
 - (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
 - (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;
 - (h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or
 - (i) Donate or give any prize to be awarded in the conduct of charitable gaming.
- (4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. ~~The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease.~~ The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. **The amount charged to rent a charitable gaming facility, whether the facility is licensed or unlicensed,** ~~rent~~ shall not be based in whole or in part ~~,~~ on a percentage of gross receipts, ~~or~~ net proceeds derived from the conduct of charitable gaming, or by reference to the number of people in attendance. ~~The department by administrative regulation may establish standards for the determination of prevailing market values.~~ A **licensed charitable gaming facility shall file a** copy of each signed lease agreement ~~shall be filed~~ with the department. ~~The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.~~
- (5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:
- (a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in one (1) of the following:
 1. A city containing a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census;
 2. An urban-county government;
 3. A consolidated local government;
 4. A charter county government; or
 5. A county containing a city of the first class or a city containing a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census; or
 - (b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city other than those listed in paragraph (a) of this subsection, or in a county that does not contain a city that is listed in paragraph (a) of this subsection.
- (6) A licensed charitable gaming facility shall report at least quarterly to the department and shall provide any information concerning its operation that the department may require.
- (7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.
- (8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.
- (9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the department, law enforcement officials, and other interested officials.

➔Section 4. KRS 11A.010 (Effective until April 1, 2021) is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means:
 - (a) All major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, executive assistants, policy advisors, special assistants, administrative coordinators, executive advisors, staff assistants, and division directors;
 - (b) Members and full-time chief administrative officers of:
 1. The Parole Board;
 2. Kentucky Claims Commission;
 3. Kentucky Retirement Systems board of trustees;
 4. Kentucky Teachers' Retirement System board of trustees;
 5. The Kentucky Public Employees Deferred Compensation Authority board of trustees;
 6. Public Service Commission;
 7. Worker's Compensation Board and its administrative law judges;
 8. The Kentucky Occupational Safety and Health Review Commission;
 9. The Kentucky Board of Education;~~[- and]~~
 10. The Council on Postsecondary Education; *and*

11. The Kentucky Horse Racing Commission.
 - (c) Salaried members of executive branch boards and commissions; and
 - (d) Any person who, through a personal service contract or any other contractual employment arrangement with an agency, performs on a full-time, nonseasonal basis a function of any major management position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;

- (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts;
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees; and
 - (i) Any person who, through any contractual arrangement with an agency, is employed to perform a function of a position within an executive branch agency on a full-time, nonseasonal basis;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(9);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public;
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert; and
- (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time employees, which is paid on a regular basis without regard to the actual number of hours worked.

➔Section 5. KRS 11A.010 (Effective April 1, 2021) is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;

- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or herself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means:
- (a) All major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, executive assistants, policy advisors, special assistants, administrative coordinators, executive advisors, staff assistants, and division directors;
 - (b) Members and full-time chief administrative officers of:
 - 1. The Parole Board;
 - 2. Kentucky Claims Commission;
 - 3. Kentucky Retirement Systems board of trustees;
 - 4. Kentucky Teachers' Retirement System board of trustees;
 - 5. The Kentucky Public Employees Deferred Compensation Authority board of trustees;
 - 6. Public Service Commission;
 - 7. Worker's Compensation Board and its administrative law judges;
 - 8. The Kentucky Occupational Safety and Health Review Commission;
 - 9. The Kentucky Board of Education;
 - 10. The Council on Postsecondary Education;
 - 11. County Employees Retirement System board of trustees;~~{and}~~
 - 12. Kentucky Public Pensions Authority; *and*
 - 13. *The Kentucky Horse Racing Commission;*
 - (c) Salaried members of executive branch boards and commissions; and
 - (d) Any person who, through a personal service contract or any other contractual employment arrangement with an agency, performs on a full-time, nonseasonal basis a function of any major management position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
- (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;

- (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts;
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees; and
 - (i) Any person who, through any contractual arrangement with an agency, is employed to perform a function of a position within an executive branch agency on a full-time, nonseasonal basis;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
 - (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(9);
 - (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
 - (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
 - (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
 - (15) "Public agency" means any governmental entity;
 - (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
 - (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
 - (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
 - (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public;
 - (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert; and
 - (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time employees, which is paid on a regular basis without regard to the actual number of hours worked.

➔Section 6. KRS 11A.040 is amended to read as follows:

- (1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.
- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.
- (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.
- (4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

- (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or
 - (b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or
 - (c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or
 - (d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; or
 - (e) Sales of craft items to a state park by interim state employees designated as craftsmen under KRS 148.257.
- (5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.
- (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within one (1) year of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.
- (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within one (1) year following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of one (1) year, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions, including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.
- (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:
- (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.
- (9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:
- (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.
- (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
- (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

- (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.
 - (c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.
- (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.
- (12) ***The prohibitions imposed by subsections (6) to (10) of this section shall not apply to members of the Kentucky Horse Racing Commission.***

➔Section 7. KRS 230.230 is amended to read as follows:

- (1) The Governor shall appoint an executive director who shall serve at the pleasure of the Governor. The Governor shall set the qualifications and salary for the position of executive director pursuant to KRS 64.640. The executive director shall possess the powers and perform the duties imposed upon him by the Governor, and other duties as the racing commission may direct or prescribe. The executive director shall:
- (a) Be responsible for the day-to-day operations of the racing commission;
 - (b) Set up appropriate organizational structures and personnel policies for approval by the racing commission;
 - (c) Appoint all staff;
 - (d) Prepare annual reports of the racing commission's program of work;
 - (e) Carry out policy and program directives of the racing commission;
 - (f) Prepare and submit to the racing commission for its approval the proposed biennial budget of the racing commission; and
 - (g) Perform all other duties and responsibilities assigned by law.

The executive director shall cause to be kept a full record of all proceedings before the racing commission and shall preserve at its general office all books, maps, records, documents, licenses, and other papers of the racing commission. All records of the racing commission shall be open to inspection by the public during regular office hours. With approval of the racing commission, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the racing commission.

- (2) The executive director of the racing commission may employ, dismiss, or take other personnel action concerning an assistant executive director, stenographers, clerks, and other personnel as he or she may deem necessary to efficiently operate the racing commission's general office or any branch thereof. The executive director of the racing commission shall fix the compensation of all employees. Any member of the racing commission or any employee referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the executive director of the racing commission. The compensation of the employees referred to in this section, except for the executive director, together with reimbursement of expenses incurred by employees, a member of the racing commission, or the executive director, shall be paid from racing commission funds.
- (3) ***Members of the Kentucky Horse Racing Commission shall be subject to the provisions of Sections 4, 5, and 6 of this Act.***

➔Section 8. The provisions of subsection (2) of Section 2 of this Act shall be waived for all licensees for the calendar year 2020.

➔Section 9. Because financial reports for calendar year 2020 and violations based upon those reports are due before the effective date of legislation passed during the 2021 General Assembly, an emergency is declared to exist, and Sections 1 to 3 and Section 8 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 8, 2021.