

AN ACT relating to lottery games.

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

➔Section 1. KRS 154A.010 is amended to read as follows:

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

- (1) "Amateur athletics" means any interscholastic athletics in which the participating athletes are elementary or secondary school students of any public or private institution of learning; any intercollegiate athletics in which the participating athletes are students of any public or private institution of higher education; or any athletics sponsored or regulated by the following amateur athletic associations including, but not limited to:
 - (a) United States Olympic Committee;
 - (b) National Collegiate Athletic Association;
 - (c) National Association of Intercollegiate Athletics;
 - (d) Kentucky High School Athletic Association;
 - (e) Kentucky Amateur Athletics Union;
 - (f) Bluegrass State Games;
 - (g) Little League Baseball;
 - (h) Amateur Softball Association;
 - (i) Babe Ruth Leagues of Kentucky;
 - (j) American Legion Baseball;
 - (k) Kentucky Youth Soccer Association; or
 - (l) Kentucky Special Olympics;
- (2) "Corporation" means the Kentucky Lottery Corporation;
- (3) "Lottery" means any game of chance approved by the corporation and operated pursuant to this chapter, except for games prohibited by the General Assembly as provided for in KRS 154A.063;
- (4) "Major lottery-specific procurement" means any gaming product or service

including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, personal service contracts, equipment, tickets, and all other products and services unique to the operation of the corporation in its lottery activities, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation;

- (5) "President" means the president of the Kentucky Lottery Corporation who shall also serve as chief executive officer of the corporation;
- (6) (a) With respect to an individual, "related entity" means any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of the individual, and any entity with respect to which the individual, or spouse, child, brother, sister, or parent of the individual has a financial interest of five percent (5%) or more, or is an officer, director, employee, or partner; and
- (b) With respect to any partnership, corporation, joint venture, or other entity, "related entity" means any officer, director, employee, partner, or owner of a financial interest of five percent (5%) or more of the total value thereof; any parent, subsidiary, or brother corporation; and any other entity with which the given entity has an identity of ownership of fifty percent (50%) or more.
- (7) "Retailer" means any person with whom the corporation has contracted to sell lottery tickets to the public;
- (8) "Security" means the protection of information that would provide an unfair advantage to any individual or other entity involved or seeking involvement in the operation of the lottery or the supply of major lottery-specific procurement items to the corporation, and the protection of:
- (a) Information that relates to detection or deterrence of, or could assist in the perpetration of, crimes against the corporation or its retailers, their locations, or their employees; or

- (b) Information which could impair or adversely impact the ability of the corporation or its retailers to protect the integrity of the lottery or protect lottery equipment, supplies, or proceeds;

(9) "Shared lottery game" means a game conducted by the corporation in collaboration with an association licensed to conduct horse racing in Kentucky, or another state, in which a portion of the money received from the sale of lottery tickets at a lottery retail terminal is used to place a random number generated pari-mutuel wager on a future live horse racing event as provided in Section 4 of this Act. A shared lottery game shall not be considered to be a prohibited lottery game as specified in KRS 154A.063;

(10)~~(9)~~ "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons, or animals, except horses, that is viewed by the public; and

(11)~~(10)~~ "Vendor" means any person who has entered into a major lottery-specific procurement contract with the corporation.

➔Section 2. KRS 154A.060 is amended to read as follows:

- (1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:
- (a) Sue and be sued in its corporate name;
 - (b) Adopt a corporate seal and a symbol;
 - (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

- (d) Appoint agents upon which process may be served;
- (e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;
- (f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810;~~[-and]~~
- (g) Make, execute, and effectuate any and all agreements or contracts including:
 - 1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars (\$100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars (\$400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar (\$400,000) threshold. Contracts for personal service shall be reviewed in accordance with KRS 45A.690 to 45A.725.
 - 2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds; **and**

(h) Place pari-mutuel wagers at horse racing tracks in Kentucky or other states as part of a shared lottery game.

- (2) The corporation shall:
 - (a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

- (b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period;
- (c) Adopt by administrative regulation a system of continuous internal audits;
- (d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;
- (e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;
- (f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

- (g) The Kentucky Lottery Corporation and the Cabinet for Health and Family Services shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Health and Family Services on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and
- (h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

➔Section 3. KRS 154A.065 is amended to read as follows:

- (1) The corporation may utilize horse racing or contests involving horses for any purpose including, but not limited to: ~~;~~
- (a) Advertising; ~~;~~
- (b) Promoting; ~~;~~
- (c) Conducting a lottery; ~~;~~ or
- (d) As a basis for a lottery; ~~;~~

After obtaining the necessary permission from the horse racing track or sponsoring authority involved.

- (2) *The corporation may develop or collaborate in the development of shared lottery games involving horse racing.***

➔Section 4. KRS 154A.130 is amended to read as follows:

- (1) (a) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account.
- (b) Notwithstanding paragraph (a) of this subsection, moneys received by the corporation from the sale of a lottery ticket in a shared lottery game shall be:
1. Divided equally between the corporation and a pari-mutuel wager to be placed at a racing association licensed under KRS Chapter 230; or
 2. Determined by:
 - a. A contract;
 - b. A memorandum of agreement; or
 - c. Another legally binding agreement;

When the shared lottery game is conducted by the corporation and an out-of-state horse racing association or other state lottery.
- (c) 1. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state.
2. Necessary expenses shall include pari-mutuel wagers on future live horse racing events placed by the corporation as part of a shared lottery game.
 3. The corporation shall retain control of all moneys in a shared lottery game until a pari-mutuel wager is placed with a licensed racing association.
 4. For the purposes of this section, a pari-mutuel wager shall be considered to be placed when the money is transferred from the corporation and enters the pari-mutuel pool at a licensed racing association.
- (d) The corporation shall allocate the amount to be paid by the corporation to

prize winners.

- (e) 1. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations.
2. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form.
3. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. ~~These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated.~~
4. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets.
5. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.
- (2) (a) A Kentucky lottery trust account is established in the State Treasury.
- (b) Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section.
- (c) Moneys credited to the Kentucky lottery trust account shall be invested by the

state in accordance with state investment practices and all earnings from the investments shall accrue to this account.

(d) No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly.

(e) Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) Each fiscal year, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars (\$1,200,000); and

(b) To the reading diagnostic and intervention fund, one million eight hundred thousand dollars (\$1,800,000).

(4) After the allocation of three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1. Forty percent (40%) in fiscal year 2003-2004; and

2. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Forty percent (40%) in fiscal year 2003-2004;

2. Forty-five percent (45%) in fiscal year 2004-2005; and

3. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006

and each fiscal year thereafter.

- (5) (a) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation.
- (b) The postaudit shall be conducted in accordance with generally accepted accounting principles and shall:
1. Be paid for by the corporation; and
 2. Shall be completed within ninety (90) days of the close of the corporation's fiscal year.
- (c) The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit.
- (d) The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs.
- (e) The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable.
- (f) Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts.
- (g) All audits shall be filed with:
1. The Governor; and
 2. The President of the Senate; and
 3. The Speaker of the House of Representatives.
- (h) The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him.
- (i) The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for

the purpose of efficient compliance with their respective responsibilities.

- (j)* With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.
- (6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:
- (a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;
 - (b) A statement identifying the auditing firm;
 - (c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and
 - (d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

➔Section 5. KRS 138.510 is amended to read as follows:

- (1) (a) Except as provided in paragraph (d) of this subsection, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the commission as follows:
- 1. For each track with a daily average live handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track *and wagers placed by the Kentucky Lottery*

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during the fiscal year; and

2. For each track with a daily average live handle under one million two hundred thousand dollars (\$1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track **and wagers placed by the Kentucky Lottery Corporation on live races at the track as part of shared lottery games** during the fiscal year.
- (b) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting pari-mutuel wagering on historical horse races under the jurisdiction of the commission at a rate of one and one-half percent (1.5%) of all money wagered on historical horse races at the track during the fiscal year.
- (c) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection and deposited as follows:
1. An amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400;
 2. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for harness racing shall be deposited in the Kentucky standardbred development fund established in KRS 230.770;
 3. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for quarter horse, Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, Appaloosa, and Arabian development fund established by KRS 230.445;
 4. An amount equal to two-tenths of one percent (0.2%) of all money

wagered on live races and historical horse races at the track shall be deposited in the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed six hundred fifty thousand dollars (\$650,000);

5. a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities.
- c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.
- d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and

6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3), except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- (d) The excise tax imposed by paragraph (a) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.
 - (e) The excise tax imposed by paragraph (a) of this subsection, and the distributions provided for in paragraph (c) of this subsection, shall apply to money wagered on historical horse races beginning September 1, 2011, through March 31, 2014, and historical horse races shall be considered live racing for purposes of determining the daily average live handle. Beginning April 1, 2014, the tax imposed by paragraph (b) of this subsection shall apply to money wagered on historical horse races.
- (2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is imposed on:
 1. All tracks conducting telephone account wagering;
 2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the commission; and
 3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.
 - (b) The tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
 - (c) A noncontiguous track facility approved by the commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total

annual handle on live racing of two hundred fifty thousand dollars (\$250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.

(d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:

1. An amount equal to two percent (2%) of the amount wagered shall be deposited as follows:
 - a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;
 - b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race meeting or the interstate wagering is conducted on a harness race meeting; or
 - c. In the Kentucky quarter horse, Appaloosa, and Arabian development fund established by KRS 230.445, if the host track is conducting a quarter horse, Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, Appaloosa, or Arabian horse race meeting;
2. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;
3. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be deposited in a trust and revolving fund to be used for

the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(c)5. of this section; and

4. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).
- (3) The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.

(4) For the purposes of this section, a pari-mutuel wager shall be considered to be placed when the money is transferred from the Kentucky Lottery Corporation and enters the pari-mutuel pool at a licensed racing association.

➔Section 6. KRS 138.511 is amended to read as follows:

As used in KRS 138.510 to 138.550:

- (1) "Advanced deposit account wagering" has the same meaning as in KRS 230.210;
- (2) "Advanced deposit account wagering license" has the same meaning as in KRS 230.210;
- (3) "Association" has the same meaning as in KRS 230.210;
- (4) "Commission" means the Kentucky Horse Racing Commission;
- (5) "Daily average live handle" means:
 - (a) The handle from wagers made at a track on live racing during the fiscal year, excluding amounts wagered:
 1. At a receiving track;
 2. At a simulcast facility;
 3. On telephone account wagering;
 4. Through advance deposit account wagering;
 5. At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by

KRS 230.3771 and 230.3773;~~and~~

6. Beginning April 1, 2014, on historical horse races; and

7. By the Kentucky Lottery Corporation as part of a shared lottery game as defined by Section 1 of this Act;

divided by:

- (b) The total number of days that live racing was conducted at the track during the fiscal year;
- (6) "Department" means the Department of Revenue;
- (7) "Fiscal year" means a time frame beginning 12:01 a.m. July 1, and ending 12 midnight June 30;
- (8) "Handle" means total wagers made on a race;
- (9) (a) "Historical horse race" means any horse race that:
 - 1. Was previously run at a licensed pari-mutuel facility in the United States;
 - 2. Concluded with official results; and
 - 3. Concluded without scratches, disqualifications, or dead-heat finishes.
- (b) As used in this subsection, the terms "pari-mutuel," "scratch," "disqualification," and "dead heat" have the same meaning as established by the commission pursuant to an administrative regulation promulgated under KRS Chapter 13A;
- (10) "Host track" has the same meaning as in KRS 230.210;
- (11) "Interstate wagering" has the same meaning as in KRS 230.210;
- (12) "Intertrack wagering" has the same meaning as in KRS 230.210;
- (13) "Kentucky resident" means:
 - (a) An individual domiciled within this state;
 - (b) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the taxable year

in this state; or

- (c) An individual who lists a Kentucky address as his or her principal place of residence when applying for an account to participate in advance deposit account wagering;
- (14) "Receiving track" has the same meaning as in KRS 230.210;
- (15) "Simulcast facility" has the same meaning as in KRS 230.210;
- (16) "Takeout" means that portion of the handle which is distributed to persons other than those making wagers;
- (17) "Telephone account wagering" has the same meaning as in KRS 230.210; and
- (18) "Track" has the same meaning as in KRS 230.210.

➔Section 7. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.
- (2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a

business. *Bookmaking shall not include shared lottery games conducted in accordance with KRS Chapter 154A.*

- (3) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.
- (b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238.
- (4) "Gambling device" means:
- (a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or
- (b) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;
- (c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.
 2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.
 3. Devices used in the conduct of charitable gaming.
- (5) "Lottery and gift enterprise" means:
- (a) A gambling scheme in which:
 1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be

- designated the winning ones; and
2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and
 3. The holders of the winning chances are to receive something of value.
- (b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.
- (6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.
- (7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.
- (8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity. ***This definition shall not apply to partners in shared lottery games as defined in Section 1 of this Act.***
- (9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or

indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

- (10) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

➔Section 8. KRS 528.110 is amended to read as follows:

- (1) Any person who, either for himself or as agent or employee of another, wagers money or anything of value on a horse race run or about to be run or advertised, posted or reported as being run at any race track in or out of this state, or who engages in the occupation of receiving, making, transmitting or negotiating, either in person or by messenger, telephone or telegraph, wagers on horse races run or about to be run or advertised, posted or reported as being run or about to be run at any race track in or out of the state, shall **be guilty of a Class A misdemeanor,** except in the **following instances, which shall be exempt from the provisions of this subsection:**~~[- case of]~~
- (a) Wagers made within the enclosure of a race track licensed by the Kentucky Horse Racing Commission during an authorized race meeting at that track;~~[-~~
~~or]~~
- (b) **Wagers made within** an enclosure during regular meetings in which running, trotting or pacing races are being conducted by associations regularly organized for that purpose;~~[-~~
~~or]~~
- (c) **Wagers made through a shared lottery game as defined in Section 1 of this Act**~~[- be guilty of a Class A misdemeanor].~~
- (2) In any prosecution under subsection (1) of this section, the state need not prove that the horse race upon which the wager was placed was actually run. Proof that the wager was made upon what purported to be or what was advertised, reported or understood to be a horse race shall be sufficient to establish a prima facie case for

the state.

➔Section 9. KRS 230.210 is amended to read as follows:

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

- (1) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the racing commission, and may place a pari-mutuel wager through that account that is permitted by law;
- (2) "Advance deposit account wagering licensee" means a person or entity licensed by the racing commission to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts;
- (3) "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;
- (4) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;
- (5) "Association" means any person licensed by the Kentucky Horse Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;
- (6) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;
- (7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Horse Racing Commission, and may include Thoroughbred, harness, Appaloosa, Arabian, and quarter horse racing;
- (8) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track

- conducting racing and offering simulcasts of races conducted in other states or foreign countries;
- (9) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;
- (10) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;
- (11) "Kentucky quarter horse, Appaloosa, and Arabian purse fund" means a purse fund established to receive funds as specified in KRS 230.3771 for purse programs established in KRS 230.446 to supplement purses for quarter horse, Appaloosa, and Arabian horse races. The purse program shall be administered by the Kentucky Horse Racing Commission;
- (12) "Kentucky resident" means:
- (a) An individual domiciled within this state;
 - (b) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the calendar year in this state; or
 - (c) An individual who lists a Kentucky address as his or her principal place of residence when applying for an account to participate in advance deposit account wagering;
- (13) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:
- (a) The chairman and all members of the board of directors of a corporation;
 - (b) All partners of a partnership and all participating members of a limited liability company;

- (c) All trustees and trust beneficiaries of an association;
 - (d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
 - (e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and
 - (f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;
- (14) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;
- (15) "Racing commission" means the Kentucky Horse Racing Commission;
- (16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;
- (17) **"Shared lottery game" has the same meaning as in Section 1 of this Act;**
- (18)** "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;
- (19)**~~(18)~~ "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;
- (20)**~~(19)~~ "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by

direct telephone call or by communication through other electronic media owned by the holder of the account to the track;

~~(21)~~~~(20)~~ "Thoroughbred race" or "Thoroughbred racing" means a form of horse racing in which each horse participating in the race is a Thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey; and

~~(22)~~~~(21)~~ "Track" means any association duly licensed by the Kentucky Horse Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon racing commission approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

➔Section 10. KRS 230.225 is amended to read as follows:

- (1) The Kentucky Horse Racing Commission is created as an independent agency of state government to regulate the conduct of horse racing and pari-mutuel wagering on horse racing, and related activities within the Commonwealth of Kentucky. The racing commission shall be attached to the Public Protection Cabinet for administrative purposes.
- (2) The Kentucky Horse Racing Commission shall consist of fifteen (15) members appointed by the Governor, with the secretaries of the Public Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic Development Cabinet serving as ex officio, nonvoting members. Two (2) members shall have no financial interest in the business or industry regulated. The members of the racing commission shall be appointed to serve for a term of three (3) years. Any member appointed to fill a

vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term. In making appointments, the Governor may consider members broadly representative of the Thoroughbred industry and members broadly representative of the standardbred, quarter horse, Appaloosa, or Arabian industries. The Governor may also consider recommendations from the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of the Horsemen's Benevolent and Protective Association, the Kentucky Harness Horsemen's Association, and other interested organizations.

- (3) Members of the racing commission shall receive one hundred dollars (\$100) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The Governor shall appoint one (1) member of the racing commission to serve as its chairperson who shall serve at the pleasure of the Governor. The Governor shall further designate a second member to serve as vice chair with authority to act in the absence of the chairperson. Before entering upon the discharge of their duties, all members of the Kentucky Horse Racing Commission shall take the constitutional oath of office.
- (4) The racing commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The racing commission may hold meetings at any of its offices or at any other place when the convenience of the racing commission requires. All meetings of the racing commission shall be open and public, and all persons shall be permitted to attend meetings. A majority of the voting members of the racing commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.
- (5) Except as otherwise provided, the racing commission shall be responsible for the following:
 - (a) Developing and implementing programs designed to ensure the safety and

- well-being of horses, jockeys, and drivers;
- (b) Developing programs and procedures that will aggressively fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;
 - (c) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;
 - (d) Designing and implementing programs that strengthen the ties between Kentucky's horse industry and the state's universities, with the goal of significantly increasing the economic impact of the horse industry on Kentucky's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues;~~†~~
~~and~~
 - (e) Developing and supporting programs which ensure that Kentucky remains in the forefront of equine research; and
 - (f) Approving shared lottery games developed in collaboration with the Kentucky lottery corporation.

➔Section 11. KRS 230.260 is amended to read as follows:

The racing commission, in the interest of breeding or the improvement of breeds of horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including but without limitation the following:

- (1) The racing commission is vested with jurisdiction and supervision over all horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the racing commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground

- of race, color, creed, national origin, ancestry, or sex;
- (2) The racing commission is vested with jurisdiction over any person or entity that offers advance deposit account wagering to Kentucky residents. Any such person or entity under the jurisdiction of the racing commission shall be licensed by the racing commission, and the racing commission may impose a license fee not to exceed ten thousand dollars (\$10,000) annually. The racing commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of advance deposit account wagering providers to include but not be limited to:
- (a) A fee schedule for applications for licensure; and
 - (b) Reporting requirements to include quarterly reporting on:
 - 1. The amount wagered on Kentucky races; and
 - 2. The total amount wagered by Kentuckians;
- (3) The racing commission is vested with jurisdiction over any totalisator company that provides totalisator services to a racing association located in the Commonwealth. A totalisator company under the jurisdiction of the racing commission shall be licensed by the racing commission, regardless of whether a totalisator company is located in the Commonwealth or operates from a location or locations outside of the Commonwealth, and the racing commission may impose a license fee on a totalisator company. The racing commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of totalisator companies, and a fee schedule for applications for licensure;
- (4) The racing commission is vested with jurisdiction over any manufacturer, wholesaler, distributor, or vendor of any equine drug, medication, therapeutic substance, or metabolic derivative which is purchased by or delivered to a licensee or other person participating in Kentucky horse racing by means of the Internet,

- mail delivery, in-person delivery, or other means;
- (5) The racing commission is vested with jurisdiction over any horse training center or facility in the Commonwealth that records official timed workouts for publication;
 - (6) The racing commission may require an applicant for a license under subsections (2) and (3) of this section to submit to a background check of the applicant, or of any individual or organization associated with the applicant. An applicant shall be required to reimburse the racing commission for the cost of any background check conducted;
 - (7) The racing commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee, or any person owning a horse or performing services regulated by this chapter on a horse registered to participate in a breeders incentive fund under the jurisdiction of the racing commission;
 - (8) The racing commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;
 - (9) Applications for licenses shall be made in the form, in the manner, and contain information as the racing commission may, by administrative regulation, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the racing commission;
 - (10) The racing commission shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;
 - (11) The racing commission may refuse to issue or renew a license, revoke or suspend a

license, impose probationary conditions on a license, issue a written reprimand or admonishment, impose fines or penalties, deny purse money, require the forfeiture of purse money, or any combination thereof with regard to a licensee or other person participating in Kentucky horse racing for violation of any federal or state statute, regulation, or steward's or racing commission's directive, ruling, or order to preserve the integrity of Kentucky horse racing or to protect the racing public. The racing commission shall, by administrative regulation, establish the criteria for taking the actions described in this subsection;

- (12) The racing commission may issue subpoenas for the attendance of witnesses before it and for the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities related to pari-mutuel horse racing within the Commonwealth. The racing commission may administer oaths to witnesses and require witnesses to testify under oath whenever, in the judgment of the racing commission, it is necessary to do so for the effectual discharge of its duties;
- (13) The racing commission shall have authority to compel any racing association licensed under this chapter to file with the racing commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association; and
- (14) The racing commission shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight.

(15) The racing commission is vested with jurisdiction over all wagers placed with racing associations by a shared lottery game and shall promulgate administrative regulations to establish technical criteria to ensure the integrity of all wagers placed as part of a shared lottery game at a licensed association.

➔Section 12. KRS 230.361 is amended to read as follows:

- (1) The racing commission shall promulgate administrative regulations governing and regulating mutuel wagering on horse races under what is known as the pari-mutuel system of wagering. The wagering shall be conducted only by a person licensed under this chapter to conduct a race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the racing commission. The racing commission shall not require any particular make of equipment.
- (2) The operation of a pari-mutuel system for betting where authorized by law shall not constitute grounds for the revocation or suspension of any license issued and held under KRS 242.1238 and 243.265.
- (3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at horse race meetings shall be presumed abandoned if not claimed by the person entitled to them within one (1) year from the time the ticket became payable.
- (4) The racing commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; if all proceeds from the wagering, after expenses are deducted, is used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the racing commission shall not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations promulgated by the racing commission.
- (5) The racing commission shall promulgate administrative regulations to establish oversight and control of pari-mutuel wagers placed as part of a shared lottery game.**
- (6) Wagers placed as part of a shared lottery game may be placed by:**

- (a) Direct interface between the lottery's electronic ticket purchase system and a licensed totalizator system; or
- (b) Other methods as approved by the commission.
- (7) For the purposes of this section, a pari-mutuel wager shall be considered to be placed when the money is transferred from the Kentucky Lottery Corporation and enters the pari-mutuel pool at a licensed racing association.