

1 AN ACT relating to wagering and making an appropriation therefor.

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

3 ➔SECTION 1. KRS CHAPTER 239 IS ESTABLISHED AND A NEW  
4 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this chapter unless the context requires otherwise:*

- 6 *(1) "Adjusted gross revenue" means the total sum of entry fees collected by a fantasy*  
7 *contest operator from all participants entering a fantasy contest, less winnings*  
8 *paid to participants in the contest, multiplied by the resident percentage;*
- 9 *(2) "Beginner" means a fantasy contest player who has entered fewer than fifty-one*  
10 *(51) contests offered by a single fantasy contest operator and who does not*  
11 *otherwise meet the definition of highly experienced player;*
- 12 *(3) "Cabinet" means the Public Protection Cabinet;*
- 13 *(4) "Confidential information" means information related to the play of a fantasy*  
14 *contest by fantasy contest participants obtained as a result of or by virtue of a*  
15 *person's employment;*
- 16 *(5) "Entry fee" means the cash or cash equivalent that is required to be paid by a*  
17 *fantasy contest participant to a fantasy contest operator in order to participate in*  
18 *a fantasy contest;*
- 19 *(6) "Fantasy contest" means any fantasy or simulated game or contest that meets the*  
20 *following conditions:*
- 21 *(a) The values of all prizes and awards offered to winning participants are*  
22 *made known to the participants in advance of the contest;*
- 23 *(b) All winning outcomes reflect the relative knowledge and skill of the*  
24 *participants and shall be determined predominantly by accumulated*  
25 *statistical results of the performance of individuals, including athletes in the*  
26 *case of sports events;*
- 27 *(c) No winning outcome is based on:*

- 1           1. Randomized or historical events;
- 2           2. The score, point spread, or any performance or performances of any
- 3           single actual team or combination of such teams; or
- 4           3. Solely on any single performance of an individual athlete or
- 5           participant in any single actual event; and
- 6           (d) Does not violate any provision of federal law;
- 7           (7) "Fantasy contest operator" or "operator" means a person who offers or
- 8           administers one (1) or more fantasy contests with an entry fee to the general
- 9           public, and awards a prize of value;
- 10          (8) "Fantasy contest participant" or "participant" means a person who participates
- 11          in a fantasy contest offered by a registrant;
- 12          (9) "Highly experienced player" means a person who has either:
- 13           (a) Entered more than one thousand (1,000) fantasy contests offered by a single
- 14           fantasy contest operator; or
- 15           (b) Won more than three (3) fantasy contest prizes valued at one thousand
- 16           dollars (\$1,000) or more from a single fantasy contest operator.
- 17          Upon making a determination that a player is a highly experienced player, the
- 18          fantasy contest operator shall continue to classify the player as a highly
- 19          experienced player indefinitely;
- 20          (10) "Immediate family" means a person's parents, grandparents, spouse, siblings,
- 21          children, or grandchildren residing in a home occupied by the person as a
- 22          primary residence;
- 23          (11) "Location percentage" means for each fantasy contest, the percentage, rounded
- 24          to the nearest tenth of a percent (0.1%), of the total entry fees collected from
- 25          participants located in the Commonwealth divided by the total entry fees collected
- 26          from all participants in the fantasy contest;
- 27          (12) "Person" has the same meaning as in KRS 446.010;

1 (13) "Principal stockholder" means any person who, individually or together with his  
2 or her spouse and immediate family members, beneficially owns or controls,  
3 directly or indirectly, fifteen percent (15%) or more of the equity ownership of a  
4 registrant or who, together with his or her spouse and immediate family  
5 members, has the power to vote or cause the vote of fifteen percent (15%) or more  
6 of a registrant;

7 (14) "Registered fantasy contest operator" or "registrant" means a fantasy contest  
8 operator that has been issued a valid registration by the cabinet;

9 (15) "Script" means automating a manual act using a coding language online,  
10 whereby a list of multiple commands may be executed without the user's  
11 interaction;

12 (16) "Secretary" means the secretary of the Public Protection Cabinet; and

13 (17) "Wager" means a sum of money or representation of value that is risked on an  
14 occurrence for which the outcome is uncertain.

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
16 READ AS FOLLOWS:

17 (1) No fantasy contest operator shall offer a fantasy contest to residents of the  
18 Commonwealth without a valid registration issued by the cabinet, except that  
19 fantasy contest operators with fewer than one hundred (100) participants located  
20 in the Commonwealth in a calendar year shall be exempt from this requirement.

21 (2) Any person seeking to be registered as a fantasy contest operator shall submit an  
22 application to the cabinet on a form prescribed by the cabinet as promulgated in  
23 an administrative regulation, accompanied by payment of the required fee  
24 established in subsection (4) of this section.

25 (3) The applicant shall provide the following information to the cabinet as a  
26 prerequisite for registration:

27 (a) The name of the applicant;

- 1        (b) The location of the applicant's principal place of business;
- 2        (c) A disclosure of ownership of the applicant including all directors, officers,
- 3                and principal stockholders;
- 4        (d) A designation of the responsible party who is the agent for the contest
- 5                operator for all communications with the cabinet;
- 6        (e) 1. The criminal record of all officers, general partners, and principal
- 7                stockholders of the applicant.
- 8                2. An applicant may not be eligible for registration or renewal as a
- 9                fantasy contest operator if the applicant or any of its officers, general
- 10                partners, or principal stockholders has been convicted of or has
- 11                entered a plea of nolo contendere or guilty to a felony; and
- 12        (f) Any other documentation the cabinet may require.
- 13        (4) (a) The initial registration fee for a fantasy contest operator shall be five
- 14                thousand dollars (\$5,000).
- 15        (b) The annual renewal fee for a fantasy contest operator shall be an amount
- 16                equal to the greater of:
- 17                1. Six percent (6%) of the adjusted gross revenues for the prior calendar
- 18                year; or
- 19                2. Five thousand dollars (\$5,000).
- 20        (c) The initial registration fee and the annual renewal fee shall be deposited
- 21                into the wagering administration fund established in Section 4 of this Act.

22        ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO

23 READ AS FOLLOWS:

- 24        (1) (a) The cabinet shall promulgate administrative regulations for the operation
- 25                of fantasy contests as necessary to enforce the provisions of this chapter, but
- 26                the cabinet shall not promulgate administrative regulations limiting or
- 27                regulating:

- 1           1. Rules or the administration of an individual contest or contests;  
2           2. The statistical makeup of a contest or contests; or  
3           3. The digital platform of an operator.  
4           (b) The cabinet shall promulgate the administrative regulations listing the  
5           requirements for registration within thirty (30) days of the effective date of  
6           this Act.  
7           (2) The cabinet shall consider all applications for registration and shall issue a valid  
8           registration to an applicant that meets the criteria set forth in Section 2 of this  
9           Act and any administrative regulations promulgated by the cabinet.  
10          (3) (a) The cabinet shall have thirty (30) days after receiving an initial application  
11          to issue a registration or deny the application.  
12          (b) The cabinet shall prepare and issue a written statement setting forth the  
13          reasons why an application for registration has been denied.  
14          (4) All fantasy contest operators who meet the requirements for registration shall be  
15          registered by January 15, 2021.  
16          (5) The cabinet may revoke, deny, or suspend the registration of a fantasy contest  
17          operator if it finds that:  
18          (a) Any partner, member, officer, principal stockholder, or director of the  
19          operator has been convicted of a felony in this state, a felony in another  
20          state which would be a felony if committed in this state, or a felony under  
21          the laws of the United States. For purposes of this paragraph, the term  
22          "convicted" means having been found guilty, regardless of adjudication of  
23          guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty  
24          or nolo contendere; or  
25          (b) Any fantasy contest operator has:  
26          1. Violated any order of the secretary or any of the provisions set forth in  
27          this chapter;

- 1           2. Failed to meet the requirements for registration under this chapter; or  
2           3. Used fraud, misrepresentation, or deceit in applying for or attempting  
3           to apply for a registration or otherwise in operating or offering to  
4           operate a fantasy contest.
- 5 (6) If it appears to the secretary, based upon credible evidence presented in a written  
6 complaint, that a person is operating or offering to operate a fantasy contest  
7 without being registered, the secretary may issue an order to cease and desist the  
8 activity.
- 9 (7) The secretary shall set forth in the order:
- 10           (a) The statutes and administrative regulations alleged to have been violated;  
11           (b) The facts alleged to have constituted the violation; and  
12           (c) The requirement that all unauthorized practices immediately cease.
- 13 (8) (a) Within ten (10) days after service of the order to cease and desist, the person  
14 may request a hearing on the question of whether acts or practices in  
15 violation of this section have occurred. The hearing shall be conducted  
16 pursuant to KRS Chapter 13B.
- 17           (b) The person may appeal the final order of the cabinet to the Franklin Circuit  
18 Court within thirty (30) days of the hearing.
- 19 (9) To ensure that the cabinet is not spending more than what is necessary to cover  
20 administrative expenses, on June 30 of each year, the cabinet shall submit to the  
21 Legislative Research Commission and the Interim Joint Committee on Licensing,  
22 Occupations, and Administrative Regulations a written report detailing financial  
23 transactions, including:
- 24           (a) The number of applications received;  
25           (b) The number of applications approved;  
26           (c) The number of applications denied;  
27           (d) The amount of funds received from initial registration fees;

1 (e) The amount of funds received from annual renewal fees; and

2 (f) The amount of funds expended to enforce this chapter.

3 (10) KRS Chapters 230 and 528 shall not apply to fantasy contests operated in  
4 accordance with this chapter.

5 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
6 READ AS FOLLOWS:

7 (1) (a) There is hereby established in the State Treasury a restricted account to be  
8 known as the wagering administration fund. The fund shall consist of  
9 moneys received from the money collected under Sections 2, 15, 19, and 42  
10 of this Act and state appropriations.

11 (b) 1. Amounts deposited in the fund shall be used for administrative  
12 expenses of the cabinet and shall be disbursed by the Finance and  
13 Administration Cabinet upon the warrant of the Public Protection  
14 Cabinet.

15 2. The remaining funds shall be used as follows:

16 a. Five percent (5%) of the funds remaining after the expenses  
17 under subparagraph 1. of this paragraph shall be deposited in  
18 the Kentucky problem gambling assistance account established  
19 in Section 5 of this Act; and

20 b. All remaining funds not allocated under subparagraph 1. of this  
21 paragraph or subdivision a. of this subparagraph shall be  
22 deposited in the Kentucky permanent pension fund established in  
23 KRS 42.205.

24 3. Any interest accruing to the fund shall become a part of the fund and  
25 shall not lapse.

26 (2) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal  
27 year shall not lapse but shall be carried forward into the next fiscal year.

1 (3) Moneys deposited in the fund are hereby appropriated for the purposes set forth  
 2 in this section and shall not be appropriated or transferred by the General  
 3 Assembly for any other purposes.

4 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
 5 READ AS FOLLOWS:

6 (1) (a) There is established in the State Treasury a revolving account to be known  
 7 as the Kentucky problem gambling assistance account.

8 (b) The account shall be administered by the director of the Division of  
 9 Behavioral Health of the Department for Behavioral Health,  
 10 Developmental and Intellectual Disabilities, and shall consist of moneys  
 11 distributed to it under Section 4 of this Act.

12 (c) Notwithstanding KRS 45.229, moneys remaining in the account at the close  
 13 of a fiscal year shall not lapse but shall carry forward into the succeeding  
 14 fiscal year. Interest earned on any moneys in the account shall accrue to the  
 15 account.

16 (d) Except for administrative expenses of the Division of Behavioral Health  
 17 relating to the account, which shall be limited to fifty thousand dollars  
 18 (\$50,000) per year, all moneys in the account are appropriated for, and  
 19 shall be used exclusively for the purposes of:

20 1. Providing support to agencies, groups, organizations, and persons that  
 21 provide education, assistance, and counseling to persons and families  
 22 experiencing difficulty as a result of addiction to alcohol or drugs, or  
 23 addictive or compulsive gambling;

24 2. Promoting public awareness of, and providing education about  
 25 addictions;

26 3. Establishing and funding programs to certify addiction counselors;

27 4. Promoting public awareness of assistance programs for addicts; and



- 1           5. Paying the costs and expenses associated with the treatment of  
2           addictions.
- 3   (2) The cabinet shall promulgate administrative regulations to establish criteria for  
4   the expenditure of funds from the Kentucky problem gambling assistance  
5   account. The administrative regulations shall:
- 6   (a) Establish standards for the types of agencies, groups, organizations, and  
7   persons eligible to receive funding;
- 8   (b) Establish standards for the types of activities eligible for funding;
- 9   (c) Establish standards for the appropriate documentation of past performance  
10   and the activities of agencies, groups, organizations, and persons requesting  
11   funding;
- 12   (d) Establish standards for the development of performance measures or other  
13   evidence of successful expenditure of awarded funds;
- 14   (e) Set forth procedures for the submission, evaluation, and review of  
15   applications for funding;
- 16   (f) Set forth procedures for making funding awards to requesting entities who  
17   have demonstrated the capability to efficiently and effectively provide the  
18   necessary services;
- 19   (g) Establish requirements and procedures for the monitoring of funds  
20   awarded, including requirements for the submission of reports and  
21   documentation supporting expenditures; and
- 22   (h) Include any other provisions related to funding or the administration of the  
23   account as determined by the cabinet.
- 24   (3) On or before October 1, 2021, and every October 1 thereafter, the director of the  
25   Division of Behavioral Health, in cooperation with the commissioner of the  
26   Department for Behavioral Health, Developmental and Intellectual Disabilities  
27   and the secretary, shall submit an annual report detailing activities and

1 expenditures associated with the Kentucky problem gambling assistance account  
2 for the preceding fiscal year. The annual report shall be submitted to:

3 (a) The Legislative Research Commission; and

4 (b) The Governor.

5 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
6 READ AS FOLLOWS:

7 (1) (a) A registrant offering fantasy contests shall annually submit its records to a  
8 certified public accountant to perform an annual independent audit  
9 consistent with the standards of the American Institute of Certified Public  
10 Accountants to ensure compliance with all of the requirements in this  
11 chapter.

12 (b) The registrant shall pay all costs of the audit. The audit shall cover one (1)  
13 fiscal year.

14 (2) (a) Each registrant shall keep daily records of its operations and shall maintain  
15 the records for at least six (6) years.

16 (b) The records shall sufficiently detail all financial transactions to determine  
17 compliance with the requirements of this chapter and shall be available for  
18 audit and inspection by the cabinet during the registrant's regular business  
19 hours.

20 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
21 READ AS FOLLOWS:

22 (1) A registrant shall implement commercially reasonable procedures for the conduct  
23 of fantasy contests requiring an entry fee that are intended to:

24 (a) Prevent the registrant, its employees, and the immediate family of employees  
25 from competing in any public fantasy contest with a cash prize offered by  
26 any fantasy contest operator;

27 (b) Prevent sharing of confidential information with third parties that could

- 1 affect fantasy contest play until that information is made publicly available;
- 2 (c) Verify that each fantasy contest participant in each fantasy contest is
- 3 eighteen (18) years of age or older;
- 4 (d) Prevent an individual who is a participant or game official in an actual
- 5 sporting event or competition from participating in any fantasy contest that
- 6 is determined in whole or in part on the performance of that individual, the
- 7 individual's actual team, or the accumulated statistical results of the
- 8 sporting event or competition in which the individual is a participant or
- 9 contest official;
- 10 (e) Allow an individual, upon request, to exclude himself or herself from
- 11 entering a fantasy contest upon request and provide reasonable steps to
- 12 prevent that person from entering the fantasy contests offered by the fantasy
- 13 contest operator;
- 14 (f) Disclose the number of entries that a participant may submit to each
- 15 fantasy contest;
- 16 (g) Provide reasonable steps to prevent participants from submitting more than
- 17 the allowable number of entries;
- 18 (h) 1. In any contest involving more than one hundred (100) entries, prevent
- 19 a participant from submitting more than the lesser of:
- 20 a. Three percent (3%) or more of all entries; or
- 21 b. One hundred fifty (150) entries.
- 22 2. Notwithstanding subparagraph 1. of this paragraph, a registrant may
- 23 establish contests in which there are no restrictions on the number of
- 24 entries if:
- 25 a. The registrant clearly discloses that there are no limits on the
- 26 number of entries by each participant in the contest; and
- 27 b. The entry fee is fifty dollars (\$50) or more per entry;

- 1        (i) Segregate participants' funds from operational funds or maintain a reserve  
2        in the form of cash, cash equivalents, payment processor reserves, payment  
3        processor receivables, an irrevocable letter of credit, a bond, an escrow  
4        account approved by the cabinet, or a combination thereof, in the amount of  
5        the deposits in participants' accounts for benefit and protection of the funds  
6        held in those accounts;
- 7        (j) Distinguish highly experienced participants and beginner participants and  
8        ensure that highly experienced participants are conspicuously identified to  
9        all participants;
- 10       (k) Prohibit the use of external scripts in fantasy contests that give a participant  
11       an unfair advantage over other participants and make all authorized scripts  
12       readily available to all fantasy contest participants;
- 13       (l) Clearly and conspicuously disclose all rules that govern its contests,  
14       including the material terms of each promotional offer at the time the offer  
15       is advertised; and
- 16       (m) Use technologically reasonable measures to limit each fantasy contest  
17       participant to one (1) active account with that operator.
- 18       (2) A registrant shall not conduct, operate, or offer a fantasy contest that:
- 19       (a) Utilizes:
- 20            1. Video or mechanical reels or symbols or any other depictions of slot  
21            machines, poker, blackjack, craps, or roulette; or
- 22            2. Any device that qualifies as or replicates contest activities that  
23            constitute gaming; or
- 24       (b) Includes a university, college, high school, or youth athletic contest or  
25       event.
- 26       (3) Officers and directors of registrants along with their immediate family are  
27       prohibited from competing in any fantasy contest offered by any fantasy contest

1 operator in which the operator offers a cash prize.

2 (4) (a) Any person who knowingly violates any provision of this chapter shall:

3 1. For the first offense, be liable for a civil penalty of not less than one  
 4 thousand dollars (\$1,000) nor more than five thousand dollars  
 5 (\$5,000) for each act or omission that constitutes a violation; or

6 2. a. For a second or subsequent offense, be liable for a civil penalty  
 7 of not less than five thousand dollars (\$5,000) and not more than  
 8 twenty-five thousand dollars (\$25,000); or

9 b. Revocation of registration at the discretion of the secretary.

10 (b) A civil penalty assessed under this subsection shall accrue to the  
 11 Commonwealth and may be recovered in a civil action brought by the  
 12 cabinet.

13 (c) Nothing in this chapter shall deprive an aggrieved participant of any  
 14 personal right of redress.

15 ➔Section 8. KRS 230.210 is amended to read as follows:

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

17 (1) "Advance deposit account wagering" means a form of ~~pari-mutuel~~ wagering in  
 18 which an individual may establish an account with a person or entity licensed by the  
 19 racing commission, and may place a pari-mutuel or sports wager through that  
 20 account that is permitted by law;

21 (2) "Advance deposit account wagering licensee" means a person or entity licensed by  
 22 the racing commission to conduct advance deposit account wagering and accept  
 23 deposits and wagers, issue a receipt or other confirmation to the account holder  
 24 evidencing such deposits and wagers, and transfer credits and debits to and from  
 25 accounts;

26 (3) "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which  
 27 each horse participating in the race is registered with the Appaloosa Horse Club of

- 1 Moscow, Idaho, and is mounted by a jockey;
- 2 (4) "Arabian" means a horse that is registered with the Arabian Horse Registry of  
3 Denver, Colorado;
- 4 (5) "Association" means any person licensed by the Kentucky Horse Racing  
5 Commission under KRS 230.300 and engaged in the conduct of a recognized horse  
6 race meeting;
- 7 (6) "Harness race" or "harness racing" means trotting and pacing races of the  
8 standardbred horses;
- 9 (7) "Horse race meeting" means horse racing run at an association licensed and  
10 regulated by the Kentucky Horse Racing Commission, and may include  
11 Thoroughbred, harness, Appaloosa, Arabian, paint, and quarter horse racing;
- 12 (8) "Host track" means the track conducting racing and offering its racing for intertrack  
13 wagering, or, in the case of interstate wagering, means the Kentucky track  
14 conducting racing and offering simulcasts of races conducted in other states or  
15 foreign countries;
- 16 (9) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a  
17 host track by patrons at a receiving track;
- 18 (10) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a  
19 track located in another state or foreign country by patrons at a receiving track or  
20 simulcast facility;
- 21 (11) "Kentucky quarter horse, paint horse, Appaloosa, and Arabian purse fund" means a  
22 purse fund established to receive funds as specified in KRS 230.3771 for purse  
23 programs established in KRS 230.446 to supplement purses for quarter horse, paint  
24 horse, Appaloosa, and Arabian horse races. The purse program shall be  
25 administered by the Kentucky Horse Racing Commission;
- 26 (12) "Kentucky resident" means:
- 27 (a) An individual domiciled within this state;

- 1 (b) An individual who maintains a place of abode in this state and spends, in the  
2 aggregate, more than one hundred eighty-three (183) days of the calendar year  
3 in this state; or
- 4 (c) An individual who lists a Kentucky address as his or her principal place of  
5 residence when applying for an account to participate in advance deposit  
6 account wagering;
- 7 (13) "Paint horse" means a horse registered with the American Paint Horse Association  
8 of Fort Worth, Texas;
- 9 (14) "Principal" means any of the following individuals associated with a partnership,  
10 trust, association, limited liability company, or corporation that is licensed to  
11 conduct a horse race meeting or an applicant for a license to conduct a horse race  
12 meeting:
- 13 (a) The chairman and all members of the board of directors of a corporation;
- 14 (b) All partners of a partnership and all participating members of a limited  
15 liability company;
- 16 (c) All trustees and trust beneficiaries of an association;
- 17 (d) The president or chief executive officer and all other officers, managers, and  
18 employees who have policy-making or fiduciary responsibility within the  
19 organization;
- 20 (e) All stockholders or other individuals who own, hold, or control, either directly  
21 or indirectly, five percent (5%) or more of stock or financial interest in the  
22 collective organization; and
- 23 (f) Any other employee, agent, guardian, personal representative, or lender or  
24 holder of indebtedness who has the power to exercise a significant influence  
25 over the applicant's or licensee's operation;
- 26 (15) **"Professional sports venue" means a facility, including but not limited to an**  
27 **indoor arena, outdoor stadium, or race track with seating for at least fifty**

1        *thousand (50,000) and where professional sporting events are held under the*  
2        *auspices of a professional league recognized by the racing commission under*  
3        *Section 10 of this Act;*

4        (16) "Quarter horse" means a horse that is registered with the American Quarter Horse  
5        Association of Amarillo, Texas;

6        (17)~~(16)~~ "Racing commission" means the Kentucky Horse Racing Commission;

7        (18)~~(17)~~ "Receiving track" means a track where simulcasts are displayed for wagering  
8        purposes. A track that submits an application for intertrack wagering shall meet all  
9        the regulatory criteria for granting an association license of the same breed as the  
10       host track, and shall have a heated and air-conditioned facility that meets all state  
11       and local life safety code requirements and seats a number of patrons at least equal  
12       to the average daily attendance for intertrack wagering on the requested breed in the  
13       county in which the track is located during the immediately preceding calendar year;

14       (19)~~(18)~~ "Simulcast facility" means any facility approved pursuant to the provisions of  
15       KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;

16       (20)~~(19)~~ "Simulcasting" means the telecast of live audio and visual signals of horse  
17       races for the purpose of pari-mutuel wagering;

18       (21)~~(20)~~ *"Sports wagering" means the placing of wagers on the outcomes of*  
19       *professional sports contests and other events in conformance with federal law*  
20       *and as authorized by the racing commission at tracks and through advanced*  
21       *deposit wagering as authorized by this chapter and Section 19 of this Act;*

22       (22) "Telephone account wagering" means a form of pari-mutuel wagering where an  
23       individual may deposit money in an account at a track and may place a wager by  
24       direct telephone call or by communication through other electronic media owned by  
25       the holder of the account to the track;

26       (23)~~(21)~~ "Thoroughbred race" or "Thoroughbred racing" means a form of horse racing  
27       in which each horse participating in the race is a Thoroughbred, (i.e., meeting the



1 requirements of and registered with The Jockey Club of New York) and is mounted  
2 by a jockey; and

3 ~~(24)~~~~(22)~~ "Track" means any association duly licensed by the Kentucky Horse Racing  
4 Commission to conduct horse racing. "Track" shall include any facility or real  
5 property that is owned, leased, or purchased by a track within the same geographic  
6 area within a sixty (60) mile radius of a track but not contiguous to track premises,  
7 upon racing commission approval, and provided the noncontiguous property is not  
8 within a sixty (60) mile radius of another licensed track premise where live racing is  
9 conducted and not within a forty (40) mile radius of a simulcast facility, unless any  
10 affected track or simulcast facility agrees in writing to permit a noncontiguous  
11 facility within the protected geographic area.

12 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO  
13 READ AS FOLLOWS:

14 *(1) The racing commission shall institute a system of sports wagering in*  
15 *conformance with federal law, this chapter, Section 19 of this Act, and*  
16 *administrative regulations promulgated under the authority of Section 11 of this*  
17 *Act.*

18 *(2) Sports wagering shall not be offered in this state except by:*

19 *(a) A track that is licensed under this chapter;*

20 *(b) A professional sports venue; or*

21 *(c) An online or smart phone application that shall:*

22 *1. Only be available through in-person registration at a licensed track or*  
23 *professional sports venue where the individual registering for the*  
24 *application shall provide proof that he or she is at least eighteen (18)*  
25 *years of age;*

26 *2. Contain geographical location software to ensure that bets are placed*  
27 *only within the boundaries of the Commonwealth; and*

1           3. Include an option for advance deposit account wagering on sports  
2           events.

3       (3) A licensed track or professional sports venue may contract with an interactive  
4       sports wagering technology and service provider to provide services and  
5       technology which supports the track's operation of sports betting both on the  
6       track and over the Internet.

7       (4) A track or professional sports venue shall not offer sports wagering until the  
8       racing commission has issued a sports wagering license to the track or venue.

9           ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO  
10       READ AS FOLLOWS:

11       (1) Sporting events that may be wagered upon at the discretion of the racing  
12       commission include but are not limited to:

13       (a) Professional sporting events sanctioned by nationally recognized  
14       organizations, including but not limited to:

15           1. The National Football League;

16           2. The National Basketball Association;

17           3. Major League Baseball;

18           4. The Professional Golfers' Association;

19           5. The National Association for Stock Car Auto Racing; and

20           6. Other nationally recognized organizations sanctioning events in  
21           professional sports such as boxing, mixed martial arts, and soccer;

22       (b) College sporting events sanctioned by the National Collegiate Athletic  
23       Association, the National Association of Intercollegiate Athletics, or other  
24       collegiate athletic body recognized by the commission; however, a sports  
25       wager shall not be accepted upon any collegiate sporting event in which a  
26       Kentucky collegiate team is competing;

27       (c) International events such as the Olympics and World Cup Soccer, at the

- 1                    discretion of the racing commission; and
- 2                    (d) Actions within a sporting event that do not represent the end result of the
- 3                    game, but are integral to the play of the game, including but not limited to:
- 4                    1. The result of a putt;
- 5                    2. The result of an at bat; or
- 6                    3. The result of a field goal attempt.

- 7                    (2) Random events not integral to the course of play of a sporting event, including
- 8                    but not limited to:
- 9                    (a) The result of a coin toss;
- 10                   (b) The color of a coaches tie; or
- 11                   (c) Other events that are not the result of the skilled play of the game;
- 12                   shall not be wagered on, and the racing commission shall act as arbiter of
- 13                   acceptable wagers when a question arises.

14                   ➔Section 11. KRS 230.215 is amended to read as follows:

- 15                   (1) (a) It is the policy of the Commonwealth of Kentucky, in furtherance of its
- 16                   responsibility to foster and to encourage legitimate occupations and industries
- 17                   in the Commonwealth and to promote and to conserve the public health,
- 18                   safety, and welfare, and it is hereby declared the intent of the Commonwealth
- 19                   to foster and to encourage the horse breeding industry within the
- 20                   Commonwealth and to encourage the improvement of the breeds of horses.
- 21                   (b) Further, it is the policy and intent of the Commonwealth to foster and to
- 22                   encourage the business of legitimate horse racing with pari-mutuel wagering
- 23                   thereon in the Commonwealth on the highest possible plane. Further, it hereby
- 24                   is declared the policy and intent of the Commonwealth that all racing not
- 25                   licensed under this chapter is a public nuisance and may be enjoined as such.
- 26                   (c) Further, it is hereby declared the policy and intent of the Commonwealth that
- 27                   the conduct of horse racing, or the participation in any way in horse racing, or

1 the entrance to or presence where horse racing is conducted, is a privilege and  
2 not a personal right; and that this privilege may be granted or denied by the  
3 racing commission or its duly approved representatives acting in its behalf.

4 **(d) Further, it hereby is declared the policy and intent of the Commonwealth**  
5 **that citizens shall be allowed to enjoy wagering on sporting events in a**  
6 **controlled environment that protects the citizens from cheating and fraud,**  
7 **and that such wagering shall be best controlled and overseen by the**  
8 **Kentucky Horse Racing Commission, which has demonstrated a long and**  
9 **successful history of regulating wagering.**

10 (2) **(a)** It is hereby declared the purpose and intent of this chapter in the interest of the  
11 public health, safety, and welfare, to vest in the racing commission forceful  
12 control of horse racing in the Commonwealth with plenary power to  
13 promulgate administrative regulations prescribing conditions under which all  
14 legitimate horse racing and wagering thereon is conducted in the  
15 Commonwealth so as to encourage the improvement of the breeds of horses in  
16 the Commonwealth, to regulate and maintain horse racing at horse race  
17 meetings in the Commonwealth of the highest quality and free of any corrupt,  
18 incompetent, dishonest, or unprincipled horse racing practices, and to regulate  
19 and maintain horse racing at race meetings in the Commonwealth so as to  
20 dissipate any cloud of association with the undesirable and maintain the  
21 appearance as well as the fact of complete honesty and integrity of horse  
22 racing in the Commonwealth.

23 **(b) In addition, it is hereby declared the purpose and intent of this chapter to**  
24 **vest in the racing commission exclusive jurisdiction over sports wagering in**  
25 **the Commonwealth, with the exception of fantasy contest wagering under**  
26 **KRS Chapter 239, with plenary power to promulgate administrative**  
27 **regulations prescribing conditions under which all legitimate sports**

1           wagering is to be conducted.

2           (c) In addition to the general powers and duties vested in the racing commission  
3           by this chapter, it is the intent hereby to vest in the racing commission the  
4           power to eject or exclude from association grounds or any part thereof any  
5           person, licensed or unlicensed, whose conduct or reputation is such that his  
6           presence on association grounds may, in the opinion of the racing  
7           commission, reflect on the honesty and integrity of horse racing or interfere  
8           with the orderly conduct of horse racing.

9           ➔Section 12. KRS 230.225 is amended to read as follows:

10          (1) The Kentucky Horse Racing Commission is created as an independent agency of  
11          state government to regulate the conduct of horse racing and pari-mutuel wagering  
12          on horse racing, and sports wagering and related activities within the  
13          Commonwealth of Kentucky. The racing commission shall be attached to the Public  
14          Protection Cabinet for administrative purposes.

15          (2) (a) The Kentucky Horse Racing Commission shall consist of fifteen (15)  
16          members appointed by the Governor, with the secretaries of the Public  
17          Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic  
18          Development Cabinet, or their designees, serving as ex officio nonvoting  
19          members.

20          (b) Two (2) members shall have no financial interest in the business or industry  
21          regulated.

22          (c) The members of the racing commission shall be appointed to serve for a term  
23          of four (4) years, except the initial terms shall be staggered as follows:

24                  1. Five (5) members shall serve for a term of four (4) years;

25                  2. Five (5) members shall serve for a term of three (3) years; and

26                  3. Five (5) members shall serve for a term of two (2) years.

27          (d) Any member appointed to fill a vacancy occurring other than by expiration of

1 a term shall be appointed for the remainder of the unexpired term.

2 (e) In making appointments, the Governor may consider members broadly  
3 representative of the Thoroughbred industry and members broadly  
4 representative of the standardbred, quarter horse, Appaloosa, or Arabian  
5 industries. The Governor may also consider recommendations from the  
6 Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of  
7 the Horsemen's Benevolent and Protective Association, and the Kentucky  
8 Harness Horsemen's Association, as well as members recommended by the  
9 professional sports organizations recognized under Section 10 of this Act  
10 and other interested organizations.

11 (3) (a) Members of the racing commission shall receive no compensation for serving  
12 on the commission, but shall be reimbursed for travel expenses for attending  
13 meetings and performing other official functions consistent with the  
14 reimbursement policy for state employees established by KRS 45.101 and  
15 administrative regulations promulgated thereunder.

16 (b) The Governor shall appoint one (1) member of the racing commission to serve  
17 as its chairperson who shall serve at the pleasure of the Governor.

18 (c) The Governor shall further designate a second member to serve as vice chair  
19 with authority to act in the absence of the chairperson.

20 (d) Before entering upon the discharge of their duties, all members of the  
21 Kentucky Horse Racing Commission shall take the constitutional oath of  
22 office.

23 (4) (a) The racing commission shall establish and maintain a general office for the  
24 transaction of its business and may in its discretion establish a branch office or  
25 offices.

26 (b) The racing commission may hold meetings at any of its offices or at any other  
27 place when the convenience of the racing commission requires.

1 (c) All meetings of the racing commission shall be open and public, and all  
2 persons shall be permitted to attend meetings.

3 (d) A majority of the voting members of the racing commission shall constitute a  
4 quorum for the transaction of its business or exercise of any of its powers.

5 (5) Except as otherwise provided, the racing commission shall be responsible for the  
6 following:

7 (a) Developing and implementing programs designed to ensure the safety and  
8 well-being of horses, jockeys, and drivers;

9 (b) Developing programs and procedures that will aggressively fulfill its oversight  
10 and regulatory role on such matters as medical practices and integrity issues;

11 (c) Recommending tax incentives and implementing incentive programs to ensure  
12 the strength and growth of the equine industry;

13 (d) Designing and implementing programs that strengthen the ties between  
14 Kentucky's horse industry and the state's universities, with the goal of  
15 significantly increasing the economic impact of the horse industry on  
16 Kentucky's economy, improving research for the purpose of promoting the  
17 enhanced health and welfare of the horse, and other related industry issues;{  
18 ~~and~~}

19 (e) Developing and supporting programs which ensure that Kentucky remains in  
20 the forefront of equine research; and

21 (f) Developing monitoring programs to ensure the highest integrity of athletic  
22 events and sports wagering.

23 ➔Section 13. KRS 230.240 is amended to read as follows:

24 (1) (a) In addition to the employees referred to in KRS 230.230, the executive  
25 director of the racing commission may employ, dismiss, or take other  
26 personnel action and determine the reasonable compensation of stewards,  
27 supervisors of mutuels, veterinarians, inspectors, accountants, security

1 officers, and other employees deemed by the executive director to be essential  
2 at or in connection with any horse race meeting and in the best interest of  
3 racing, or those deemed by the executive director to be integral to the  
4 conduct of sports wagering.

5 **(b)** Three (3) Thoroughbred stewards shall be employed at each Thoroughbred  
6 race meeting as follows:

7 **1.** Two (2) stewards shall be employed and compensated by the  
8 Commonwealth, subject to reimbursement by the racing associations  
9 pursuant to subsection (3) of this section; and

10 **2.** One (1) Thoroughbred steward shall be employed and compensated by  
11 the racing association hosting the race meeting.

12 **(c)** Three (3) standardbred judges shall be employed at each standardbred race  
13 meeting as follows:

14 **1.** Two (2) standardbred judges shall be employed and compensated by the  
15 Commonwealth, subject to reimbursement by the racing associations  
16 pursuant to subsection (3) of this section; and

17 **2.** One (1) standardbred judge shall be employed and compensated by the  
18 racing association hosting the race meeting.

19 **(d)** The security officers shall be peace officers and conservators of the peace on  
20 racing commission property and at all race tracks and grounds in the  
21 Commonwealth and shall possess all the common law and statutory powers  
22 and privileges now available or hereafter made available to sheriffs,  
23 constables, and police officers for the purpose of enforcing all laws relating  
24 directly or indirectly to the conduct of horse racing and pari-mutuel wagering  
25 thereon, the conduct of sports wagering, or the enforcement of laws relating  
26 to the protection of persons or property on premises licensed by the racing  
27 commission.



1       (e) The racing commission, for the purpose of maintaining integrity and honesty  
2       in racing, shall prescribe by administrative regulation the powers and duties of  
3       the persons employed under this section and qualifications necessary to  
4       competently perform their duties. In addition, the racing commission shall be  
5       responsible for seeing that racing officials employed under the provisions of  
6       this section have adequate training to perform their duties in a competent  
7       manner.

8       (2) (a) The racing commission shall promulgate administrative regulations for  
9       effectively preventing the use of improper devices, and restricting or  
10      prohibiting the use and administration of drugs or stimulants or other  
11      improper acts to horses prior to the horse participating in a race.

12      (b) The racing commission may acquire, operate, and maintain, or contract for the  
13      maintenance and operation of, a testing laboratory and related facilities, for  
14      the purpose of saliva, urine, or other tests, and to purchase supplies and  
15      equipment for and in connection with the laboratory or testing processes.

16      (c) The expense of the laboratory or other testing processes, whether furnished by  
17      contract or otherwise, together with all supplies and equipment used in  
18      connection therewith, shall be paid by the various associations licensed under  
19      this chapter in the manner and in proportions as the racing commission shall  
20      by administrative regulation provide.

21      (3) (a) The compensation of the employees referred to in this section shall be paid by  
22      the licensee conducting the horse race meeting in connection with which the  
23      employees are utilized or employed.

24      (b) The salary of the executive director to the racing commission shall be prorated  
25      among and paid by the various associations licensed under this chapter in the  
26      manner as the racing commission shall, by administrative regulation, provide.

27      (c) Except for the Thoroughbred steward and the standardbred judge authorized

1 in subsection (1) of this section, the employees referred to in this section shall  
2 be deemed employees of the racing commission, and are paid by the licensee  
3 or association for convenience only.

4 (4) Each person, as a condition precedent to the privilege of receiving a license under  
5 this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay  
6 expenses and compensation as provided in this section and as may be actually and  
7 reasonably incurred.

8 ➔Section 14. KRS 230.260 is amended to read as follows:

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

12 (1) The racing commission is vested with jurisdiction and supervision over all horse  
13 race meetings and sports wagering in this Commonwealth and over all associations  
14 and all persons on association grounds and may eject or exclude therefrom or any  
15 part thereof, any person, licensed or unlicensed, whose conduct or reputation is such  
16 that his presence on association grounds may, in the opinion of the racing  
17 commission, negatively reflect on the honesty and integrity of horse racing, or on  
18 athletic contests upon which sports wagers have been placed, or interfere with the  
19 orderly conduct of horse racing or racing at horse race meetings; provided, however,  
20 no persons shall be excluded or ejected from association grounds solely on the  
21 ground of race, color, creed, national origin, ancestry, or sex;

22 (2) The racing commission is vested with jurisdiction over any person or entity that  
23 offers advance deposit account wagering to Kentucky residents for pari-mutuel  
24 wagering on horse racing or for sports wagering. Any such person or entity under  
25 the jurisdiction of the racing commission shall be licensed by the racing  
26 commission, and the racing commission may impose a license fee not to exceed ten  
27 thousand dollars (\$10,000) annually. The racing commission shall, by

1 administrative regulation promulgated in accordance with KRS Chapter 13A,  
2 establish conditions and procedures for the licensing of advance deposit account  
3 wagering providers to include but not be limited to:

4 (a) A fee schedule for applications for licensure; and

5 (b) Reporting requirements to include quarterly reporting on:

6 1. The amount wagered on Kentucky races;~~and~~

7 2. The amount wagered on each sporting event on which wagers were  
8 accepted; and

9 3. The total amount wagered by Kentuckians on horse racing and on  
10 sporting events;

11 (3) The racing commission is vested with jurisdiction over any totalisator company that  
12 provides totalisator services to a racing association located in the Commonwealth.  
13 A totalisator company under the jurisdiction of the racing commission shall be  
14 licensed by the racing commission, regardless of whether a totalisator company is  
15 located in the Commonwealth or operates from a location or locations outside of the  
16 Commonwealth, and the racing commission may impose a license fee on a  
17 totalisator company. The racing commission shall, by administrative regulation  
18 promulgated in accordance with KRS Chapter 13A, establish conditions and  
19 procedures for the licensing of totalisator companies, and a fee schedule for  
20 applications for licensure;

21 (4) The racing commission is vested with jurisdiction over any manufacturer,  
22 wholesaler, distributor, or vendor of any equine drug, medication, therapeutic  
23 substance, or metabolic derivative which is purchased by or delivered to a licensee  
24 or other person participating in Kentucky horse racing by means of the Internet,  
25 mail delivery, in-person delivery, or other means;

26 (5) The racing commission is vested with jurisdiction over any horse training center or  
27 facility in the Commonwealth that records official timed workouts for publication;

- 1 (6) The racing commission may require an applicant for a license under subsections (2)  
2 and (3) of this section to submit to a background check of the applicant, or of any  
3 individual or organization associated with the applicant. An applicant shall be  
4 required to reimburse the racing commission for the cost of any background check  
5 conducted;
- 6 (7) The racing commission, its representatives and employees, may visit, investigate  
7 and have free access to the office, track, facilities, or other places of business of any  
8 licensee, or any person owning a horse or performing services regulated by this  
9 chapter on a horse registered to participate in a breeders incentive fund under the  
10 jurisdiction of the racing commission;
- 11 (8) The racing commission shall have full authority to prescribe necessary and  
12 reasonable administrative regulations and conditions under which horse racing at a  
13 horse race meeting shall be conducted in this state and to fix and regulate the  
14 minimum amount of purses, stakes, or awards to be offered for the conduct of any  
15 horse race meeting;
- 16 (9) Applications for licenses shall be made in the form, in the manner, and contain  
17 information as the racing commission may, by administrative regulation, require.  
18 Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to  
19 the racing commission;
- 20 (10) The racing commission shall establish by administrative regulation minimum fees  
21 for jockeys to be effective in the absence of a contract between an employing owner  
22 or trainer and a jockey. The minimum fees shall be no less than those of July 1,  
23 1985;
- 24 (11) The racing commission may refuse to issue or renew a license, revoke or suspend a  
25 license, impose probationary conditions on a license, issue a written reprimand or  
26 admonishment, impose fines or penalties, deny purse money, require the forfeiture  
27 of purse money, or any combination thereof with regard to a licensee or other

1 person participating in Kentucky horse racing for violation of any federal or state  
 2 statute, regulation, or steward's or racing commission's directive, ruling, or order to  
 3 preserve the integrity of Kentucky horse racing or to protect the racing public. The  
 4 racing commission shall, by administrative regulation, establish the criteria for  
 5 taking the actions described in this subsection;

6 (12) The racing commission may issue subpoenas for the attendance of witnesses before  
 7 it and for the production of documents, records, papers, books, supplies, devices,  
 8 equipment, and all other instrumentalities related to pari-mutuel horse racing or  
 9 sports wagering within the Commonwealth. The racing commission may  
 10 administer oaths to witnesses and require witnesses to testify under oath whenever,  
 11 in the judgment of the racing commission, it is necessary to do so for the effectual  
 12 discharge of its duties;

13 (13) The racing commission shall have authority to compel any racing association  
 14 licensed under this chapter to file with the racing commission at the end of its fiscal  
 15 year, a balance sheet, showing assets and liabilities, and an earnings statement,  
 16 together with a list of its stockholders or other persons holding a beneficial interest  
 17 in the association; and

18 (14) The racing commission shall promulgate administrative regulations establishing  
 19 safety standards for jockeys, which shall include the use of rib protection  
 20 equipment. Rib protection equipment shall not be included in a jockey's weight.

21 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO  
 22 READ AS FOLLOWS:

23 (1) No person shall conduct or offer to conduct sports wagering within the  
 24 Commonwealth of Kentucky without obtaining a sports wagering license from  
 25 the racing commission.

26 (2) As a prerequisite to obtaining a sports wagering license, a person shall be:

27 (a) Licensed as an association under KRS 230.300; or

1       **(b) A professional sports venue sanctioned by one (1) or more of the**  
 2               **professional sports leagues recognized under subsection (1)(a) of Section 10**  
 3               **of this Act.**

4       **(3) In addition to the requirement in subsection (2) of this section, an initial**  
 5               **licensing fee of five hundred thousand dollars (\$500,000) shall be paid to the**  
 6               **racing commission before a license may be issued.**

7       **(4) An annual renewal fee of fifty thousand dollars (\$50,000) shall be required for**  
 8               **each sports wagering license.**

9       **(5) Licensing fees paid under this section shall be deposited into the wagering**  
 10               **administration fund established by Section 4 of this Act.**

11       ➔Section 16. KRS 230.320 is amended to read as follows:

12       (1) Every license granted under this chapter is subject to denial, revocation, or  
 13       suspension.~~[, and]~~

14       **(2)** Every **racing** licensee or other person participating in Kentucky horse racing may be  
 15       assessed an administrative fine and required to forfeit or return a purse, by the  
 16       racing commission in any case where it has reason to believe that any provision of  
 17       this chapter, administrative regulation, or condition of the racing commission  
 18       affecting it has not been complied with or has been broken or violated. The racing  
 19       commission may deny, revoke, or suspend a license for failure by the licensee or  
 20       other person participating in Kentucky horse racing to pay an administrative fine  
 21       imposed upon the licensee by the stewards or the racing commission. The racing  
 22       commission, in the interest of honesty and integrity of horse racing, may promulgate  
 23       administrative regulations under which any license may be denied, suspended, or  
 24       revoked, and under which any licensee or other person participating in Kentucky  
 25       horse racing may be assessed an administrative fine or required to forfeit or return a  
 26       purse.

27       **(3)**~~[(2)]~~ (a) Following a hearing by the stewards, a person who has been disciplined

- 1 by a ruling of the stewards may apply to the racing commission for a stay of  
2 the ruling, pending action on an appeal by the racing commission.
- 3 (b) An application for a stay shall be received by the executive director or his  
4 designee within ten (10) calendar days of the issuance of the stewards' ruling.
- 5 (c) An application for a stay shall be in writing and include the following:
- 6 1. The name, address, telephone number, and signature of the person  
7 requesting the stay;
  - 8 2. A statement of the justification for the stay; and
  - 9 3. The period of time for which the stay is requested.
- 10 (d) On a finding of good cause, the executive director or his designee may grant  
11 the stay. The executive director or his designee shall issue a written decision  
12 granting or denying the request for stay within five (5) calendar days from the  
13 time the application for stay is received by the executive director or his  
14 designee. If the executive director or his designee fails to timely issue a  
15 written decision, then the stay is deemed granted. The executive director or his  
16 designee may rescind a stay granted under this subsection for good cause.
- 17 (e) A person who is denied a stay by the executive director or his designee, or has  
18 a previously granted stay rescinded under paragraph (d) of this subsection,  
19 may petition the racing commission to overrule the executive director's or  
20 designee's denial or rescission of the stay. The petition shall be filed in writing  
21 with the chairperson of the racing commission and received by the chairperson  
22 within ten (10) calendar days of the mailing of the executive director's or  
23 designee's denial of the stay. The petition shall state the name, address, phone  
24 number, and signature of the petitioner; a statement of justification of the stay;  
25 and the time period for which the stay is requested. The chairperson shall  
26 convene a special meeting of the racing commission within ten (10) calendar  
27 days of receipt of the petition, and the racing commission shall issue a written

1 final order granting or denying the petition within two (2) calendar days of the  
2 special meeting. If the racing commission fails to timely issue a final order on  
3 the petition, then the stay is granted. The racing commission may rescind a  
4 stay granted under this subsection for good cause.

5 (f) A person who is denied or has a previously granted stay rescinded by the  
6 racing commission may file an appeal of the final written order of the racing  
7 commission in the Circuit Court of the county in which the cause of action  
8 arose.

9 (g) The fact that a stay is granted is not a presumption that the ruling by the  
10 stewards is invalid.

11 ~~(4)~~~~(3)~~ If any *racing-associated* license is denied, suspended, or revoked, or if any  
12 licensee or other person participating in Kentucky horse racing is assessed an  
13 administrative fine or required to forfeit or return a purse, after a hearing by the  
14 stewards or by the racing commission acting on a complaint or by its own volition,  
15 the racing commission shall grant the applicant, licensee, or other person the right  
16 to appeal the decision, and upon appeal, an administrative hearing shall be  
17 conducted in accordance with KRS Chapter 13B.

18 ~~(5)~~~~(4)~~ The racing commission may at any time order that any case pending before the  
19 stewards be immediately transferred to the racing commission for an administrative  
20 hearing conducted in accordance with KRS Chapter 13B.

21 ~~(6)~~~~(5)~~ (a) In an administrative appeal to the racing commission by a licensee or  
22 other person participating in Kentucky horse racing, the racing commission  
23 may determine in its final order that the appeal is frivolous. If the racing  
24 commission finds that an appeal is frivolous:

- 25 1. This fact shall be considered an aggravating circumstance and may be  
26 considered in assessing any penalty against the licensee; and
- 27 2. The licensee or other person who raised the appeal may be required to



1 reimburse the racing commission for the cost of the investigation of the  
 2 underlying circumstances of the case and the cost of the adjudication of  
 3 the appeal. Costs may include but are not limited to fees paid to a  
 4 hearing officer or court reporter, attorneys fees, and laboratory expenses.

5 (b) The racing commission shall by administrative regulation prescribe the  
 6 conditions or factors by which an appeal may be determined to be frivolous.

7 ~~(7)(6)~~ Any administrative action authorized in this chapter shall be in addition to any  
 8 criminal penalties provided in this chapter or under other provisions of law.

9 ➔Section 17. KRS 230.361 is amended to read as follows:

10 (1) The racing commission shall promulgate administrative regulations governing and  
 11 regulating mutuel wagering on horse races under what is known as the pari-mutuel  
 12 system of wagering. The wagering shall be conducted only by a person licensed  
 13 under this chapter to conduct a race meeting and only upon the licensed premises.  
 14 The pari-mutuel system of wagering shall be operated only by a totalizator or other  
 15 mechanical equipment approved by the racing commission. The racing commission  
 16 shall not require any particular make of equipment.

17 (2) **The racing commission shall promulgate administrative regulations governing**  
 18 **and regulating sports wagering. The wagering shall be conducted only by persons**  
 19 **licensed under this chapter.**

20 (3) The operation of a pari-mutuel system for betting, **or the conduct of sports**  
 21 **wagering,** where authorized by law shall not constitute grounds for the revocation  
 22 or suspension of any license issued and held under KRS 242.1238 and 243.265.

23 ~~(4)(3)~~ All reported but unclaimed pari-mutuel **or sports wagering** winning tickets  
 24 held in this state by any person or association operating a pari-mutuel, **sports**  
 25 **wagering,** or similar system of betting **conducted through a licensed association**  
 26 ~~at horse race meetings~~ shall be presumed abandoned if not claimed by the person  
 27 entitled to them within one (1) year from the time the ticket became payable.

1 ~~(5)~~~~(4)~~ The racing commission may issue a license to conduct pari-mutuel wagering  
2 on steeple chases or other racing over jumps; if all proceeds from the wagering,  
3 after expenses are deducted, is used for charitable purposes. If the dates requested  
4 for such a license have been granted to a track within a forty (40) mile radius of the  
5 race site, the racing commission shall not issue a license until it has received written  
6 approval from the affected track. Pari-mutuel wagering licensed and approved under  
7 this subsection shall be limited to four (4) days per year. All racing and wagering  
8 authorized by this subsection shall be conducted in accordance with applicable  
9 administrative regulations promulgated by the racing commission.

10 ➔Section 18. KRS 230.3615 is amended to read as follows:

11 (1) The commission, including the tax levied in KRS 138.510, deducted from the gross  
12 amount wagered on horse racing by the association which operates a race track  
13 under the jurisdiction of the Kentucky Horse Racing Commission and conducts the  
14 Thoroughbred racing at which betting is conducted through a pari-mutuel or other  
15 similar system, in races where the patron is required to select one (1) horse, and the  
16 breaks, which breaks shall be made and calculated to the dime, shall not be more  
17 than sixteen percent (16%) at the discretion of those tracks averaging over one  
18 million two hundred thousand dollars (\$1,200,000) in on-track pari-mutuel handle  
19 per day of live racing conducted by the association. The commission at those tracks  
20 averaging one million two hundred thousand dollars (\$1,200,000) or less in on-track  
21 pari-mutuel handle per day of live racing conducted by the association, at the  
22 discretion of such track, shall not be more than seventeen and one-half percent  
23 (17.5%) in races where the patron is required to select one (1) horse, and the breaks,  
24 which breaks shall be made and calculated to the dime.

25 (2) The commission at those tracks averaging over one million two hundred thousand  
26 dollars (\$1,200,000) in on track pari-mutuel handle per day of live racing conducted  
27 by the association, including the tax levied in KRS 138.510, deducted from the

1 gross amount wagered by the person, corporation, or association which operates a  
2 race track under the jurisdiction of the Kentucky Horse Racing Commission and  
3 conducts Thoroughbred racing at which betting is conducted through a pari-mutuel  
4 or other similar system shall not exceed nineteen percent (19%) of the gross handle  
5 in races where the patron is required to select two (2) or more horses, and the  
6 breaks, which breaks shall be made and calculated to the dime. The commission, at  
7 those tracks averaging one million two hundred thousand dollars (\$1,200,000) or  
8 less in on track pari-mutuel handle per day of live racing conducted by the  
9 association, including the tax levied in KRS 138.510, deducted from the gross  
10 amount wagered by the association which operates a race track under the  
11 jurisdiction of the Kentucky Horse Racing Commission and conducts Thoroughbred  
12 racing at which betting is conducted through a pari-mutuel or other similar system  
13 shall not exceed twenty-two percent (22%) of the gross handle in races where the  
14 patron is required to select two (2) or more horses, and the breaks, which breaks  
15 shall be made and calculated to the dime.

16 (3) The minimum *pari-mutuel* wager to be accepted by any licensed association shall  
17 be ten cents (\$0.10). The minimum pay-off on a one dollar (\$1) *pari-mutuel* wager  
18 shall be one dollar and ten cents (\$1.10); but, in the event of a minus pool, the  
19 minimum pay-off for a one dollar (\$1) *pari-mutuel* wager shall be one dollar and  
20 five cents (\$1.05).

21 (4) Each association conducting Thoroughbred racing and averaging one million two  
22 hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per  
23 day of live racing conducted by the association shall pay to the racing commission  
24 all moneys allocated to the backside improvement fund in an amount equal to one-  
25 half of one percent (0.5%) of its on-track pari-mutuel wagers.

26 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO  
27 READ AS FOLLOWS:

- 1 (1) As used in this section, "adjusted gross revenue" means the total sum of bets  
2 collected by a sports wagering licensee, less winnings paid to participants in the  
3 contest;
- 4 (2) A tax is imposed on persons licensed to conduct sports wagering under KRS  
5 Chapter 230 at a rate of:
- 6 (a) Nine and three-quarters percent (9.75%) on the adjusted gross revenue on  
7 wagers placed at the licensed track or professional sports venue; or
- 8 (b) Fourteen and one-quarter percent (14.25%) on wagers placed online or via  
9 smart phone or other off-site technology approved by the Kentucky Horse  
10 Racing Commission;
- 11 and shall be appropriated to the wagering administration fund established in  
12 Section 4 of this Act and appropriated for the purposes established in that section.
- 13 (3) In addition to the tax imposed by subsection (2)(a) of this section, a tax of half of  
14 one percent (.5%) is imposed on the adjusted gross revenue on wagers placed at a  
15 licensed track and shall be allocated:
- 16 (a) To the Thoroughbred development fund established by KRS 230.400 if the  
17 revenue is from a Thoroughbred track;
- 18 (b) To the Standardbred development fund established by KRS 230.770 if the  
19 revenue is from a Standardbred track; or
- 20 (c) To be split evenly between the Thoroughbred development fund and the  
21 Standardbred development fund if the revenue is from a track racing both  
22 Thoroughbreds and Standardbreds.
- 23 (4) The department shall enforce the provisions of and collect the taxes and penalties  
24 imposed in this section, and in doing so it shall have the general powers and  
25 duties granted it in KRS Chapters 131 and 135, including the power to enforce,  
26 by an action in the Franklin Circuit Court, the collection of the taxes, penalties,  
27 and other payments imposed or required by this section.

1 (5) The tax imposed by this section is due and payable to the department monthly  
 2 and shall be remitted on or before the twentieth day of the next succeeding  
 3 calendar month.

4 (6) (a) Payment shall be accompanied by a return form which the department shall  
 5 prescribe.

6 (b) The return form shall report, at a minimum:

7 1. The total handle;

8 2. Prizes paid;

9 3. Adjusted gross revenue; and

10 4. Wagering tax due.

11 (7) Wagering taxes due and payable in accordance with this section shall be paid via  
 12 electronic funds transfer. Sports wagering licensees shall provide the department  
 13 with all protocol documentation and electronic funds transfer data necessary to  
 14 facilitate the timely transfer of funds.

15 (8) Any person who violates any provision of this section shall be subject to the  
 16 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax  
 17 interest rate as defined in KRS 131.010(6).

18 (9) The Kentucky Horse Racing Commission may suspend, revoke, or decline to  
 19 renew a license upon the licensee's failure to timely submit payment of taxes due  
 20 under this section or the administrative regulations promulgated by the  
 21 department thereto.

22 ➔Section 20. KRS 230.362 is amended to read as follows:

23 Any person holding unclaimed pari-mutuel or sports wagering winning tickets presumed  
 24 abandoned under the provisions of KRS 230.361 shall file annually, on or before  
 25 September 1 of each year, with the office of the racing commission a list of and the  
 26 amounts represented by unclaimed pari-mutuel or sports wagering tickets held by such  
 27 person as of July 1, and other information as the racing commission may require for the

1 administration of KRS 230.361 to 230.373. The report shall be made in duplicate; the  
2 original shall be retained by the racing commission and the copy shall be mailed to the  
3 sheriff of the county where the unclaimed pari-mutuel or sports wagering tickets are  
4 held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive  
5 days a copy of the report on the courthouse door or the courthouse bulletin board, and to  
6 publish the copy in the manner set forth by KRS Chapter 424. The cost of the publication  
7 shall be paid by the racing commission. The sheriff shall immediately certify in writing to  
8 the racing commission the dates when the list was posted and published. The list shall be  
9 posted and published as required on or before October 1 of the year when it is made, and  
10 such posting and publishing shall be constructive notice to all holders of pari-mutuel and  
11 sports wagering tickets which have remained unclaimed for a period of one (1) year from  
12 the time the ticket became payable.

13       ➔Section 21. KRS 230.363 is amended to read as follows:

14 Any person who has made a report of unclaimed pari-mutuel or sports wagering tickets  
15 to the racing commission as required by KRS 230.362 shall, between November 1 and  
16 November 15 of each year, turn over to the racing commission the sum represented by the  
17 unclaimed pari-mutuel or sports wagering tickets so reported; but if the person making  
18 the report or the owner of the unclaimed pari-mutuel or sports wagering ticket certifies to  
19 the racing commission by sworn statement that any or all of the statutory conditions  
20 necessary to create a presumption of abandonment no longer exists or never did exist, or  
21 shall certify existence of any fact or circumstance in which there is substantial evidence to  
22 rebut such presumption, then, the person reporting the unclaimed pari-mutuel or sports  
23 wagering tickets or holding the sum represented by the unclaimed pari-mutuel or sports  
24 wagering tickets as reported shall not be required to turn over said sum to the racing  
25 commission except upon order of court. If the holder of any unclaimed pari-mutuel or  
26 sports wagering ticket files an action in court claiming the sum which has been reported  
27 under the provisions of KRS 230.362, the person reporting or holding the sum

1 represented by said unclaimed pari-mutuel or sports wagering ticket shall be under no  
2 duty while any such action is pending to turn over said sum to the racing commission, but  
3 shall have the duty of notifying the racing commission of the pendency of such action.

4 →Section 22. KRS 230.364 is amended to read as follows:

5 Any person holding an unclaimed pari-mutuel or sports wagering ticket or any person  
6 holding the sum represented by an unclaimed pari-mutuel or sports wagering ticket, or  
7 any claimant thereto shall have the right to a judicial determination of his rights under  
8 KRS 230.361 to 230.373 and nothing therein shall be construed otherwise; and the racing  
9 commission may institute an action to recover the sum represented by the unclaimed pari-  
10 mutuel or sports wagering tickets which are presumed abandoned whether said sum has  
11 been reported or not and may include in one (1) petition the sum represented by all the  
12 unclaimed pari-mutuel or sports wagering tickets as defined herein within the  
13 jurisdiction of the court in which the action is brought.

14 →Section 23. KRS 230.365 is amended to read as follows:

15 Any person who pays the sum represented by the unclaimed pari-mutuel or sports  
16 wagering tickets to the racing commission under KRS 230.363 is relieved of all liability  
17 for the value of said unclaimed pari-mutuel or sports wagering tickets for any claim  
18 made in respect of said unclaimed pari-mutuel or sports wagering tickets.

19 →Section 24. KRS 230.366 is amended to read as follows:

20 Any person claiming an interest in any unclaimed pari-mutuel or sports wagering ticket  
21 which has been paid or surrendered to the racing commission in accordance with KRS  
22 230.361 to 230.373 may file his claim to it at any time after it was paid to the racing  
23 commission.

24 →Section 25. KRS 230.369 is amended to read as follows:

25 The racing commission, through its employees, may examine all records of any person  
26 where there is reason to believe that there has been or is a failure to report unclaimed  
27 pari-mutuel or sports wagering tickets.

1           ➔Section 26. KRS 230.371 is amended to read as follows:

2       The racing commission may require the production of reports or the surrender of sums  
3       represented by unclaimed pari-mutuel or sports wagering tickets as provided in KRS  
4       230.361 to 230.373 by civil equity action, including, but not limited to, an action in the  
5       nature of a bill of discovery, in which case the defendant shall pay a penalty equal to ten  
6       percent (10%) of all amounts that he is ultimately required to surrender. The racing  
7       commission shall follow the procedures provided by the Rules of Civil Procedure.

8           ➔Section 27. KRS 230.372 is amended to read as follows:

9       Any payments made to any persons claiming an interest in an unclaimed pari-mutuel or  
10      sports wagering ticket, and any necessary expense including, but not limited to,  
11      administrative costs, advertising costs, court costs and attorney's fees, required to be paid  
12      by the racing commission in administering or enforcing the provisions of KRS 230.361 to  
13      230.373 shall be deducted from sums received by the racing commission prior to payment  
14      to the Kentucky Racing Health and Welfare Fund.

15          ➔Section 28. KRS 230.373 is amended to read as follows:

16      Any holder of unclaimed pari-mutuel or sports wagering tickets affected by KRS  
17      230.361 to 230.373 under disability shall have five (5) years after the disability is  
18      removed in which to take any action or procedure or make any defense allowed to one sui  
19      juris.

20          ➔Section 29. KRS 230.374 is amended to read as follows:

21      All sums reported and paid to the racing commission under the provisions of KRS  
22      230.361 to 230.373, with the exception of funds paid on sports wagering tickets and  
23      under KRS 230.398, shall be paid by the racing commission to the Kentucky Racing  
24      Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the  
25      benefit, aid, assistance, and relief of Thoroughbred owners, trainers, jockeys, valets,  
26      exercise riders, grooms, stable attendants, pari-mutuel clerks, and other Thoroughbred  
27      racing personnel employed in connection with racing, and their spouses and children, who



1 can demonstrate their need for financial assistance connected with death, illness, or off-  
2 the-job injury and are not otherwise covered by union health and welfare plans, workers'  
3 compensation, Social Security, public welfare, or any type of health, medical, death, or  
4 accident insurance. These sums shall be paid on or before December 31 in each year,  
5 however, no payments shall be made by the racing commission to the Kentucky Racing  
6 Health and Welfare Fund, Inc., unless the racing commission and the Auditor of Public  
7 Accounts are satisfied that the fund is in all respects being operated for the charitable and  
8 benevolent purposes as set forth in this section and that no part of the funds paid to the  
9 fund by the racing commission or any net earnings of the fund inure to the benefit of any  
10 private individual, director, officer, or member of the fund or any of the persons who  
11 turned over sums to the racing commission representing unclaimed pari-mutuel tickets.

12       ➔Section 30. KRS 230.750 is amended to read as follows:

13 The commission, including the tax levied in KRS 138.510, deducted from the gross  
14 amount wagered by the person, corporation, or association which operates a harness horse  
15 track under the jurisdiction of the racing commission at which betting is conducted  
16 through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of  
17 the gross amount handled on straight pari-mutuel wagering pools and twenty-five percent  
18 (25%) of the gross amount handled on multiple pari-mutuel wagering pools, plus the  
19 breaks, which shall be made and calculated to the dime. Multiple pari-mutuel wagering  
20 pools shall include daily double, perfecta, double perfecta, quinella, double quinella,  
21 trifecta, and other types of exotic betting. An amount equal to three percent (3%) of the  
22 total amount wagered on pari-mutuel racing and included in the commission of a  
23 harness host track shall be allocated by the harness host track in the following manner.  
24 Two percent (2%) shall be allocated to the host for capital improvements, promotions,  
25 including advertising, or purses, as the host track shall elect. Three-quarters of one  
26 percent (3/4 of 1%) shall be allocated to overnight purses. One-quarter of one percent (1/4  
27 of 1%) shall be allocated to the Kentucky standardbred development fund. This allocation

1 shall be made after deduction from the commission of the pari-mutuel tax but prior to any  
2 other deduction, allocation or division of the commission.

3 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) A person shall not place a sports wager on a game or event in which he or she is  
6 a participant.

7 (2) As used in this section, "participant" includes:

8 (a) Players;

9 (b) Coaches;

10 (c) Referees, umpires, judges, or other officials involved in enforcing the rules  
11 of the game;

12 (d) Spouses and close family members of persons included in paragraphs (a) to  
13 (c) of this subsection;

14 (e) Owners or shareholders of professional sports teams who might have  
15 influence over players and coaches through the ability to hire or fire; and

16 (f) Employees of companies supplying technology or services related to sports  
17 wagering to a track or professional sports venue.

18 (3) A person is guilty of tampering with the outcome of a sporting event when the  
19 person interacts with a player, coach, referee, or other participant with the intent  
20 to persuade the participant to act in a way that would:

21 (a) Alter the outcome of the sporting event; or

22 (b) Alter actions within the sporting event upon which people might place  
23 sports wagers.

24 ➔Section 32. KRS 230.990 is amended to read as follows:

25 (1) Any person who violates KRS 230.070 or KRS 230.080(3) shall be guilty of a Class  
26 D felony.

27 (2) Any person who violates KRS 230.090 shall be guilty of a Class A misdemeanor.

1 (3) Any person who violates KRS 230.680 shall be guilty of a Class A misdemeanor.

2 (4) Any person who refuses to make any report or to turn over sums as required by  
3 KRS 230.361 to 230.373 shall be guilty of a Class A misdemeanor.

4 (5) Any person failing to appear before the racing commission at the time and place  
5 specified in the summons issued pursuant to KRS 230.260(12), or refusing to  
6 testify, shall be guilty of a Class B misdemeanor. False swearing on the part of any  
7 witness shall be deemed perjury and punished as such.

8 (6) (a) A person is guilty of tampering with or interfering with a horse race when,  
9 with the intent to influence the outcome of a horse race, he uses any device,  
10 material, or substance not approved by the Kentucky Horse Racing  
11 Commission on or in any participant involved in or eligible to compete in a  
12 horse race to be viewed by the public.

13 (b) Any person who, while outside the Commonwealth and with intent to  
14 influence the outcome of a horse race contested within the Commonwealth,  
15 tampers with or interferes with any equine participant involved in or eligible  
16 to compete in a horse race in the Commonwealth is guilty of tampering with  
17 or interfering with a horse race.

18 (c) Tampering with or interfering with a horse race is a Class C felony.

19 **(7) Any participant who wagers on a sporting event in violation of Section 31 of this**  
20 **Act is guilty of a Class A misdemeanor.**

21 **(8) Any person tampering with the outcome of a sporting event in violation of**  
22 **Section 31 of this Act is guilty of a Class C felony.**

23 ➔Section 33. KRS 154A.010 is amended to read as follows:

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

25 (1) "Amateur athletics" means any interscholastic athletics in which the participating  
26 athletes are elementary or secondary school students of any public or private  
27 institution of learning; any intercollegiate athletics in which the participating

1 athletes are students of any public or private institution of higher education; or any  
2 athletics sponsored or regulated by the following amateur athletic associations  
3 including, but not limited to:

- 4 (a) United States Olympic Committee;
- 5 (b) National Collegiate Athletic Association;
- 6 (c) National Association of Intercollegiate Athletics;
- 7 (d) Kentucky High School Athletic Association;
- 8 (e) Kentucky Amateur Athletics Union;
- 9 (f) Bluegrass State Games;
- 10 (g) Little League Baseball;
- 11 (h) Amateur Softball Association;
- 12 (i) Babe Ruth Leagues of Kentucky;
- 13 (j) American Legion Baseball;
- 14 (k) Kentucky Youth Soccer Association; or
- 15 (l) Kentucky Special Olympics;

16 (2) "Corporation" means the Kentucky Lottery Corporation;

17 (3) "Lottery" means any game of chance approved by the corporation and operated  
18 pursuant to this chapter, except for games prohibited by the General Assembly as  
19 provided for in KRS 154A.063;

20 (4) "Major lottery-specific procurement" means any gaming product or service  
21 including, but not limited to, major advertising contracts, annuity contracts, prize  
22 payment agreements, consulting services, personal service contracts, equipment,  
23 tickets, and all other products and services unique to the operation of the  
24 corporation in its lottery activities, but not including materials, supplies, equipment,  
25 and services common to the ordinary operations of a corporation;

26 (5) **"Net poker revenue" means the rake plus any entry fees or other fees charged to**  
27 **online poker players as a requirement to play in a game or series of games of**

1        online poker;

2        (6) "Online poker" means any form of poker, including but not limited to Five Card  
3        Draw, Seven Card Stud, and Texas Holdem, at locations removed from other  
4        players via the Internet through the use of computers, smart phones, or other  
5        types of electronic devices. Online poker shall not include video lottery terminals  
6        or slot machines using electronic representations of cards in a game of chance in  
7        which skill does not play a part;

8        (7) "President" means the president of the Kentucky Lottery Corporation who shall also  
9        serve as chief executive officer of the corporation;

10       (8) "Rake" means a percentage of the total wagers placed in an online poker game  
11       that the online poker providers collects as its fee for providing the platform upon  
12       which the online poker game is played;

13       ~~(9)~~~~(6)~~ (a) With respect to an individual, "related entity" means any spouse, child,  
14       brother, sister, or parent residing as a member of the same household in the  
15       principal place of abode of the individual, and any entity with respect to which  
16       the individual, or spouse, child, brother, sister, or parent of the individual has  
17       a financial interest of five percent (5%) or more, or is an officer, director,  
18       employee, or partner; and

19       (b) With respect to any partnership, corporation, joint venture, or other entity,  
20       "related entity" means any officer, director, employee, partner, or owner of a  
21       financial interest of five percent (5%) or more of the total value thereof; any  
22       parent, subsidiary, or brother corporation; and any other entity with which the  
23       given entity has an identity of ownership of fifty percent (50%) or more.

24       ~~(10)~~~~(7)~~ "Retailer" means any person with whom the corporation has contracted to sell  
25       lottery tickets to the public;

26       ~~(11)~~~~(8)~~ "Security" means the protection of information that would provide an unfair  
27       advantage to any individual or other entity involved or seeking involvement in the

1 operation of the lottery or the supply of major lottery-specific procurement items to  
2 the corporation, and the protection of:

3 (a) Information that relates to detection or deterrence of, or could assist in the  
4 perpetration of, crimes against the corporation or its retailers, their locations,  
5 or their employees; or

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

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

12 ~~(13)~~<sup>(10)</sup> "Vendor" means any person who has entered into a major lottery-specific or  
13 online poker equipment or service procurement contract with the corporation.

14 ➔Section 34. KRS 154A.050 is amended to read as follows:

15 (1) The board of directors shall provide the president with private-sector perspectives  
16 on the operation of a large marketing enterprise. The board shall:

17 (a) Approve, disapprove, amend, or modify the budget recommended by the  
18 president for the operation of the corporation;

19 (b) Approve, disapprove, amend, or modify the terms of major lottery  
20 procurements recommended by the president;

21 (c) Serve as a board of appeal for any denial, revocation, or cancellation by the  
22 president of a contract with a lottery retailer; and

23 (d) Adopt, from time to time, administrative regulations which shall be subject to  
24 the provisions of KRS Chapter 13A, as may be necessary to carry out and  
25 implement its powers and duties, the operation of the corporation, the conduct  
26 of lottery games in general, the conduct of online poker games, and any other  
27 matters necessary or desirable for the efficient and effective operation of the

1 lottery or convenience of the public. The board may adopt, without recourse to  
2 the administrative regulation process unless it so desires, rules for the conduct  
3 of specific lottery ***and online poker*** games, including but not limited to, rules  
4 specifying:

- 5 1. The types of games to be conducted;
- 6 2. The sale price of tickets;
- 7 3. The number and amount of prizes;
- 8 4. The method and location of selecting or validating winning tickets;
- 9 5. The frequency and the means of conducting drawings which shall be  
10 open to the public;
- 11 6. The manner of payment of prizes;
- 12 7. The frequency of games and drawings;
- 13 8. The manner and amount of compensation to lottery retailers, except all  
14 compensation shall be uniform; ~~and~~
- 15 9. **Limitations, if any, on the amount of wagers in online poker games;**  
16 **and**
- 17 **10.** Any other matters necessary or desirable for the efficient and effective  
18 operation of the lottery or for the convenience of the public.

19 (2) In all other matters, the board shall advise and make recommendations. However,  
20 the board shall:

- 21 (a) Conduct hearings upon complaints charging violations of this chapter or of  
22 administrative regulations adopted by the corporation and shall conduct such  
23 other hearings as may be provided by administrative regulation;
- 24 (b) Review the performance of the corporation and:
  - 25 1. Advise the president and make recommendations to him regarding  
26 operations of the corporation; and
  - 27 2. Identify potential improvements in this chapter, the administrative

- 1 regulations of the corporation, and the management of the corporation;
- 2 (c) Request from the corporation any information the board determines to be  
3 relevant to its duties; and
- 4 (d) Report to the president of the corporation, the Governor, the President of the  
5 Senate, and the Speaker of the House of Representatives regarding its findings  
6 and recommendations.

7 ➔Section 35. KRS 154A.060 is amended to read as follows:

- 8 (1) The corporation shall conduct and administer lottery ***and online poker*** games which  
9 will result in maximization of revenues to the Commonwealth of Kentucky while at  
10 the same time provide entertainment to its citizens. It shall be the duty of the  
11 corporation, its employees, and the members of the board to provide for the  
12 effective operation of lottery ***and online poker*** games which ~~*ensure*~~<sup>*insure*</sup> the  
13 integrity of the lottery and maintain the dignity of the Commonwealth and the  
14 general welfare of its citizens. The corporation, in pursuit of the attainment of the  
15 objectives and the purposes of this chapter, may:
- 16 (a) Sue and be sued in its corporate name;
- 17 (b) Adopt a corporate seal and a symbol;
- 18 (c) Hold copyrights, trademarks, and service marks, and enforce its rights with  
19 respect thereto;
- 20 (d) Appoint agents upon which process may be served;
- 21 (e) Enter into written agreements with one (1) or more other states for the  
22 operation, marketing, and promotion of a joint lottery or joint lottery games;
- 23 (f) Acquire real property and make improvements thereon. These acquisitions  
24 shall be reported to the Capital Projects and Bond Oversight Committee for its  
25 review and determination in accordance with KRS 45.750 to 45.810; and
- 26 (g) Make, execute, and effectuate any and all agreements or contracts including:
- 27 1. Contracts for the purchase of such goods and services as are necessary



1 for the operation and promotion of the state lottery and online poker.  
2 Proposed purchases of major items of equipment estimated to cost one  
3 hundred thousand dollars (\$100,000) or more and proposed purchases of  
4 items of equipment where the estimated contract price for all the items  
5 of equipment taken together is four hundred thousand dollars (\$400,000)  
6 or more shall be reported to the Capital Projects and Bond Oversight  
7 Committee for its review and determination in accordance with the  
8 provisions of KRS 45.750 to 45.810. A contract shall not be artificially  
9 divided to cause an estimated contract price to fall below the four  
10 hundred thousand dollar (\$400,000) threshold. Contracts for personal  
11 service shall be reviewed in accordance with KRS 45A.690 to 45A.725.

12 2. Contracts to incur debt in its own name and enter into financing  
13 agreements with the Commonwealth, its own agencies, or with a  
14 commercial bank, excluding the authority to issue bonds.

15 (2) The corporation shall:

16 (a) Supervise and administer the lottery and online poker games in accordance  
17 with the provisions of this chapter and the administrative regulations adopted  
18 by the board;

19 (b) Submit monthly and annual reports to the Governor, the President of the  
20 Senate, and the Speaker of the House of Representatives containing financial  
21 statements which include but are not limited to disclosure of gross revenues,  
22 expenses, and net proceeds for the period;

23 (c) Adopt by administrative regulation a system of continuous internal audits;

24 (d) Maintain weekly or more frequent records of lottery and online poker  
25 transactions, including distribution of tickets to lottery retailers, revenues  
26 received, claims for prizes, prizes paid, and all other financial transactions of  
27 the corporation;

- 1 (e) Adopt by administrative regulation a code of ethics for officers and employees  
2 of the corporation to carry out the standards of conduct established by the  
3 provisions of this chapter;
- 4 (f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the  
5 thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request  
6 submitted by the corporation to the Finance and Administration Cabinet  
7 pursuant to KRS 48.050. In the budget unit request submitted by the  
8 corporation, a contingency item for acquisition of the on-line central system,  
9 all related equipment, and any other equipment owned by vendors of the  
10 corporation relating to computer-generated lottery or online poker games  
11 from the corporation's vendors shall be stated separately from all other  
12 equipment. Further, if the identification of specific projects requiring the  
13 acquisition of equipment in the nature of computer systems, communications  
14 equipment and related peripheral devices, and operating system software  
15 cannot be ascertained with absolute certainty at the time the corporation is  
16 required to submit its budget unit request, the corporation shall be entitled to  
17 submit a general request for the equipment without individually identifying  
18 specific projects, together with a maximum amount to be allocated for the  
19 equipment, in the budget unit request;
- 20 (g) The Kentucky Lottery Corporation and the Cabinet for Health and Family  
21 Services shall develop a system to allow the Kentucky Lottery Corporation to  
22 receive a list of delinquent child support obligors from the Cabinet for Health  
23 and Family Services on a monthly basis. The Kentucky Lottery Corporation  
24 shall withhold delinquent amounts from prizes of winners that appear on the  
25 list. This system shall be timely and shall not create an unavoidable delay in  
26 the payment of a lottery or online poker prize; and
- 27 (h) The Kentucky Lottery Corporation and the authority shall develop a system to

1 allow the Kentucky Lottery Corporation to receive on a periodic basis a list of  
2 persons declared in default of repayment obligations under financial assistance  
3 programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation  
4 shall withhold from a person's prize winnings the amount of the defaulted loan  
5 and shall transfer the amount to the authority to credit the account of the  
6 person in default. Any amount remaining after the deduction of the loan  
7 amount shall be paid to the person.

8 ➔Section 36. KRS 154A.063 is amended to read as follows:

- 9 (1) The corporation shall not utilize amateur athletics for any purpose including, but not  
10 limited to, advertising, promoting, conducting a lottery, or as a basis for a lottery.
- 11 (2) The corporation shall not approve and operate any casino or similar gambling  
12 establishment and shall not approve or operate any game played with ~~playing~~  
13 ~~cards,~~ dice, dominos, slot machines, **or** roulette wheels~~, or where winners are~~  
14 ~~determined by the outcome of a sports contest~~.
- 15 (3) This section shall not be construed to prohibit the corporation from advertising the  
16 lottery at, during, or in connection with a sports contest.

17 ➔Section 37. KRS 154A.070 is amended to read as follows:

- 18 (1) The president, as chief executive officer of the corporation, shall direct and  
19 supervise all administrative and technical activities in accordance with the  
20 provisions of this chapter and with the administrative regulations adopted by the  
21 board. It shall be his duty to:
- 22 (a) Supervise and administer the operation of the lottery ***and online poker*** games;
- 23 (b) Employ and direct such personnel as may be necessary to carry out the  
24 purposes of this chapter and utilize such services, personnel, or facilities of  
25 the corporation as he may deem necessary. He may employ by personal  
26 service contract pursuant to KRS 45A.690 to 45A.725 and compensate ~~such~~  
27 consultants and technical assistants ~~as may be~~ required to carry out the

1 provisions of this chapter. The president may, by agreement, secure  
2 information and services as he may deem necessary from any department,  
3 agency, or unit of state government, and shall compensate ~~the~~<sup>[such]</sup>  
4 department, agency, or unit of state government for its services. Such  
5 agencies, departments, or units of state government shall cooperate with the  
6 corporation and provide ~~any~~<sup>[such]</sup> information and services~~[- as may be]~~  
7 required by the corporation to ~~ensure~~<sup>[assure]</sup> the integrity of the lottery and  
8 online poker and the effective operation of the lottery and online poker  
9 games;

10 (c) Contract in accordance with the administrative regulations of the corporation  
11 with persons to sell lottery tickets at retail. The president shall require a bond  
12 or bank letter of credit from lottery retailers in an amount provided by  
13 administrative regulations issued by the board;

14 (d) Make available for inspection by the board or any member of the board, upon  
15 request, all books, records, files, and other information and documents of his  
16 office and to advise the board and recommend such administrative regulations  
17 and other matters he deems necessary and advisable to improve the operation  
18 and administration of the lottery;

19 (e) Enter into any contract pursuant to KRS Chapters 45 and 45A or  
20 administrative regulations promulgated by the board, and pursuant to KRS  
21 154A.120, with any person, firm, or corporation for the promotion and any  
22 operation of the lottery, or online poker games, or for the performance of any  
23 of the functions as provided in this chapter;

24 (f) Attend meetings of the board or appoint a designee to attend on his behalf;  
25 and

26 (g) On the first day of the Regular Session of the General Assembly in 1990 and  
27 biennially thereafter, submit the proposed biennial budget of the corporation

1 to the Appropriations and Revenue Committee of the House of  
2 Representatives for review and comment. The budget shall be submitted to the  
3 Director of the Legislative Research Commission within five (5) days of  
4 adoption by the board for distribution to the Appropriations and Revenue  
5 Committee of the House of Representatives for review.

6 (2) The president, with the approval of the board, may amend or modify the budget at  
7 any time in any manner deemed necessary for the proper operation of the  
8 corporation; however, each change shall be reported in writing to the board and to  
9 the director of the Legislative Research Commission, who shall transmit a copy of  
10 the change to the Appropriations and Revenue Committee of the House of  
11 Representatives.

12 (3) Following his confirmation, and during his entire term of office, the president shall  
13 reside in Kentucky.

14 (4) The president, and the board, may conduct an ongoing study of the operation and  
15 administration of lotteries in other states or countries, **of online poker and other**  
16 **forms of online gaming**, of available literature on the **subjects**~~[subject]~~, of federal  
17 laws and regulations which may affect the operation of the lottery **or online poker**,  
18 and of the reaction of citizens of this state to existing or proposed features of lottery  
19 **or online poker** games, with a view toward implementing improvements that will  
20 tend to serve the purposes of this chapter.

21 (5) The president also may:

22 (a) Require bond from corporate employees with access to corporate funds,  
23 **online poker funds**, or lottery funds, in such an amount as provided in the  
24 administrative regulations of the board. The president may also require bond  
25 from other employees as he deems necessary; and

26 (b) For good cause, suspend, revoke, or refuse to renew any contract entered into  
27 in accordance with the provisions of this chapter or the administrative

1 regulations of the board.

2 ➔Section 38. KRS 154A.110 is amended to read as follows:

- 3 (1) Proceeds of lottery and online poker prizes shall be subject to Kentucky state  
4 income tax. Any attachments, garnishments, or executions authorized and issued  
5 pursuant to statute shall also be withheld if served upon the process agent of the  
6 corporation. This section shall not apply to a retailer.
- 7 (2) The board shall adopt rules to establish a system of verifying the validity of tickets  
8 claimed to win lottery prizes and to effect payment of such prizes, except that:
- 9 (a) No lottery prize, nor any portion of a lottery prize, nor any right of any person  
10 to a lottery prize awarded shall be assignable, except as provided in subsection  
11 (6) of this section. Any lottery prize, or portion thereof, remaining unpaid at  
12 the death of a prize winner shall be paid to the estate of such deceased prize  
13 winner or to the trustee under a revocable living trust established by the  
14 deceased lottery prize winner as settlor, provided that a copy of such a trust  
15 has been filed with the corporation along with a notarized letter of direction  
16 from the settlor and no written notice of revocation has been received by the  
17 corporation prior to the settlor's death. Following such a settlor's death and  
18 prior to any payment to such a successor trustee, the corporation shall obtain  
19 from the trustee and each trust beneficiary a written agreement to indemnify  
20 and hold the corporation harmless with respect to any claims that may be  
21 asserted against the corporation arising from payment to or through the trust.  
22 Notwithstanding any other provisions of this section, any person, pursuant to  
23 an appropriate judicial order, shall be paid the lottery prize to which a winner  
24 is entitled.
- 25 (b) 1. No lottery ticket shall knowingly be sold to any person under the age of  
26 eighteen (18), but this section does not prohibit the purchase of a lottery  
27 ticket by a person eighteen (18) years of age or older for the purpose of

1 making a gift to any person of any age. In such case, the corporation  
2 shall direct payment to an adult member of the person's family or the  
3 legal guardian of the person on behalf of such person. The person named  
4 as custodian shall have the same powers and duties as prescribed for a  
5 custodian pursuant to the Uniform Transfers to Minors Act.

6 **2. No person under the age of eighteen (18) shall be permitted to place a**  
7 **wager through an online poker game administered by the corporation.**

- 8 (c) No **lottery** prize shall be paid arising from claimed tickets that are stolen,  
9 counterfeit, altered, fraudulent, unissued, produced or issued in error,  
10 unreadable, not received or not recorded by the corporation within applicable  
11 deadlines, lacking in captions that conform and agree with the play symbols as  
12 appropriate to the lottery game involved, or not in compliance with such  
13 additional specific rules and public or confidential validation and security tests  
14 of the corporation appropriate to the particular lottery game involved.
- 15 (d) No particular prize in any lottery game shall be paid more than once, and in  
16 the event of a binding determination that more than one claimant is entitled to  
17 a particular prize, the sole remedy of such claimants is the award to each of  
18 them of an equal share in the prize.
- 19 (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a  
20 prize within three hundred sixty-five (365) days (for a ticket issued before  
21 January 1, 1995), and within one hundred eighty (180) days (for a ticket issued  
22 on or after January 1, 1995), or for a multistate lottery game within one  
23 hundred eighty (180) days, after the drawing in which the prize was won. In  
24 any Kentucky lottery game in which the player may determine instantly if he  
25 has won or lost, he shall claim a prize within three hundred sixty-five (365)  
26 days (for lottery games commenced or tickets printed or reprinted before  
27 January 1, 1995), and within one hundred eighty (180) days (for lottery games

1 commenced or tickets printed or reprinted on or after January 1, 1995), or for  
2 a multistate lottery game within one hundred eighty (180) days, after the end  
3 of the lottery game as announced by the corporation. However, a holder of a  
4 pull-tab lottery ticket shall claim a prize within the time period and in the  
5 manner printed on the ticket. If a valid claim is not made for a prize within the  
6 applicable period, the prize shall constitute an unclaimed prize for purposes of  
7 subsection (3) of this section.

8 (f) No prize shall be paid upon a lottery ticket purchased or sold in violation of  
9 this chapter. Any such prize shall constitute an unclaimed prize for purposes  
10 of subsection (3) of this section.

11 (3) Any unclaimed lottery prize money may be retained by the corporation and added to  
12 the pool from which future prizes are to be awarded or used for special prize  
13 promotions, or may be appropriated by the General Assembly directly from the  
14 corporation for any public purpose. For fiscal years 2000-2001 and 2001-2002, any  
15 unclaimed lottery prize money in excess of six million dollars (\$6,000,000) shall be  
16 transferred to the affordable housing trust fund established by KRS 198A.710.

17 (4) The corporation is discharged of all liability upon payment of a prize.

18 (5) No lottery ticket shall be purchased by and no lottery or online poker prize shall be  
19 paid to any of the following persons:

20 (a) Any member of the board of directors, officers, or employees of the  
21 corporation;

22 (b) Any vendors or related entities, or any member of the board of directors,  
23 officers, employees of, partners in, or owners of any vendors or related entities  
24 to the vendors; or

25 (c) Any spouse, child, brother, sister, or parent residing as a member of the same  
26 household in the principal place of abode of any such person.

27 (6) The right of any person to receive payments due under a lottery prize that is paid in



1 installments over time by the corporation, excluding prizes payable for the winner's  
2 life, may be voluntarily assigned, in whole or in part, if the assignment is made to a  
3 person or entity designated pursuant to an order of the Circuit Court located in the  
4 judicial circuit where the headquarters of the corporation is located. The Circuit  
5 Court shall issue an order approving a voluntary assignment, specifying the exact  
6 dollar amount of each prize payment or payments assigned, or any portion thereof,  
7 the dates of the payments being assigned, the name of the assignor as it appears on  
8 the lottery claim form or the full legal name of the assignor if different than the  
9 name as it appears on the lottery claim form, and the full legal name of the assignee  
10 to whom the assigned payments will be made, and directing the corporation to make  
11 the specified payments to the assignee, if all of the following conditions have been  
12 met:

- 13 (a) The assignment is in writing, executed by the assignor either before or after  
14 July 12, 2006, and by its terms, subject to the laws of this Commonwealth;
- 15 (b) The assignor provides a sworn affidavit attesting that the assignor:
- 16 1. Is of sound mind, in full command of his or her faculties, and is not  
17 acting under duress;
  - 18 2. Has had the opportunity to receive independent legal, financial, and tax  
19 advice concerning the effects of the assignment;
  - 20 3. Understands that he or she will not receive the prize payments, or  
21 portions thereof, for the years assigned;
  - 22 4. Understands and agrees that with regard to the assigned payments, the  
23 Commonwealth, the corporation, and its respective officials and  
24 employees will have no further liability or responsibility to make the  
25 assigned payments to the assignor;
  - 26 5. Has been provided with a one (1) page written disclosure statement in  
27 bold type, fourteen (14) point font or larger, setting forth:

- 1           a.    The payments being assigned, by amounts and payment dates;
- 2           b.    The purchase price being paid; and
- 3           c.    The amount, if any, of any origination or closing fees that will be
- 4                 charged to the lottery winner; and
- 5           6.    Has disclosed the existence or nonexistence of a current spouse; and, if
- 6                 married, unless the court finds the assignor may make the assignment
- 7                 without the spouse's consent, the assignor has submitted to the court a
- 8                 signed and notarized statement wherein the spouse consents to the
- 9                 assignment.
- 10 (7) Written notice of any petition seeking court approval of an assignment under
- 11 subsection (6) of this section and of a court hearing, if any, concerning the proposed
- 12 assignment shall be delivered by certified mail, return receipt requested, to the
- 13 corporation's registered agent at least fifteen (15) days prior to entry of the court
- 14 order or a court hearing, if any. The corporation is not a necessary or indispensable
- 15 party and is not required to appear in or be named as a party to any action seeking
- 16 court approval of a voluntary assignment, but may intervene as of right in any such
- 17 proceeding.
- 18 (8) A voluntary assignment under subsection (6) of this section shall not include or
- 19 cover payments or portions of payments that are, at the time of entry of the court
- 20 order, subject to offset or withholding due to:
- 21         (a) A defaulted or delinquent child support obligation;
- 22         (b) A debt owed to a state agency; or
- 23         (c) Any attachments, garnishments, or executions authorized and issued pursuant
- 24                 to statute and served upon the process agent of the corporation as set forth in
- 25                 subsection (1) of this section;
- 26         Unless appropriate provision is made in the court order to satisfy the obligation or
- 27         obligations giving rise to the offset or withholding at the time of closing of the

1 assignment transaction. Each court order shall provide that any delinquent child  
2 support obligation owed by the assignor as of the date of the court order and any  
3 debts owed to a state agency by the assignor as of the date of the court order shall be  
4 offset by the corporation first against remaining payments or portions thereof then  
5 due the assignor and then against payments due the assignee each year until paid in  
6 full.

7 (9) A court order approving a voluntary assignment under subsection (6) of this section,  
8 together with any other order issued in connection with any one (1) prize drawn,  
9 shall not require the corporation to divide any single prize payment among more  
10 than three (3) different persons or entities.

11 (10) The Commonwealth, the corporation, and their respective officials and employees  
12 shall be discharged of all further liability upon payment of a prize pursuant to court  
13 order issued under subsection (6) of this section. It shall be the responsibility of the  
14 assignor or the assignee to provide the corporation information necessary for the  
15 corporation to identify the parties to any assignment under subsection (6) of this  
16 section and to make the payments assigned.

17 (11) The Kentucky Lottery Corporation may establish a reasonable fee, not to exceed  
18 one thousand dollars (\$1,000), to defray any administrative expenses associated  
19 with processing each assignment made pursuant to subsection (6) of this section.  
20 The fee amount shall reflect the direct and indirect costs associated with processing  
21 the assignments. A court order approving an assignment under subsection (6) of this  
22 section shall direct the assignee to pay the fee to the corporation no later than ten  
23 (10) days after entry of the order.

24 (12) A certified copy of a court order approving a voluntary assignment under subsection  
25 (6) of this section shall be delivered by certified mail, return receipt requested, to  
26 the corporation's registered agent at least thirty (30) days prior to the date upon  
27 which the first assigned payment is to be paid to the assignee. Within ten (10) days

1 of receipt of the court order, the corporation shall acknowledge in writing to both  
2 the assignor and the assignee its receipt of the court order and that the corporation  
3 shall thereafter make the prize payments in accordance with the court order.

4 (13) Subsection (6) of this section supersedes and prevails over any provision in the  
5 Uniform Commercial Code, including KRS 355.9-406.

6 (14) The right to assign prize payments pursuant to subsection (6) of this section shall be  
7 suspended upon:

8 (a) The publication by the United States Internal Revenue Service, hereinafter  
9 referred to in this subsection as the "Service," of a revenue ruling or other  
10 public ruling of the Service, which rules that, based upon the right of  
11 assignment provided in subsection (6) of this section, Kentucky lottery  
12 prizewinners who do not assign any prize payments would be subject to an  
13 immediate income tax liability for the value of the entire prize rather than  
14 annual income tax liability for each installment when paid; or

15 (b) The issuance by a court of competent jurisdiction of a published decision  
16 holding that, based upon the right of assignment provided in subsection (6) of  
17 this section, a lottery prizewinner who does not assign any prize payments  
18 under that subsection would be subject to an immediate income tax liability  
19 for the value of the entire prize rather than annual income tax liability for each  
20 installment when paid.

21 ➔Section 39. KRS 154A.120 is amended to read as follows:

22 (1) The corporation shall conduct all procurements in accordance with procedures  
23 which are not inconsistent with the provisions of KRS Chapter 45A, and this  
24 chapter, this chapter being deemed to control in the event that, and to the extent  
25 that, any provision in this chapter is expressly inconsistent with any provision of  
26 KRS Chapter 45A; or the corporation shall adopt administrative regulations  
27 establishing its procurement procedures. If the corporation elects to promulgate

1 administrative regulations establishing its procurement procedures rather than  
2 conduct procurements in accordance with the provisions of KRS Chapter 45A, the  
3 corporation may include sections of KRS Chapter 45A as part of its administrative  
4 regulations. However, major lottery-specific or online poker-specific procurements  
5 for personal service contracts shall not be subject to the requirements of KRS  
6 45A.695(2)(b), due to the unique operational activities conducted for state  
7 government by the corporation as recognized in KRS 154A.020. The corporation's  
8 procurement procedures or administrative regulations shall be designed to provide  
9 for the purchase of supplies, equipment, services, and construction items that  
10 provide the greatest long term benefit to the state, the greatest integrity for the  
11 corporation, and the best service and products, for the public.

12 (2) In its bidding and negotiation processes, the corporation may do its own bidding  
13 and procurement, or may utilize the services of the Finance and Administration  
14 Cabinet, or a combination thereof. The president of the corporation may, in lieu of  
15 the secretary of finance, declare an emergency for purchasing purposes.

16 ➔Section 40. KRS 154A.130 is amended to read as follows:

17 (1) All money received by the corporation from the sale of lottery tickets and all other  
18 sources, except from the proceeds of online poker, shall be deposited into a  
19 corporate operating account. The corporation is authorized to use all money in the  
20 corporate operating account for the purposes of paying prizes and the necessary  
21 expenses of the corporation and dividends to the state. The corporation shall  
22 allocate the amount to be paid by the corporation to prize winners. The amount in  
23 the corporate operating account which the corporation anticipates will be available  
24 for the payment of prizes on an annuity basis may be invested in direct United  
25 States Treasury obligations. These instruments may be in varying maturities with  
26 respect to payment of annuities and may be in book-entry form. Monthly, no later  
27 than the last business day of the succeeding month, the corporation shall transfer to

1 a lottery trust fund the amount of net revenues which the corporation determines are  
2 surplus to its needs. These funds shall be held in trust until 1990 at which time the  
3 General Assembly shall determine the manner in which the funds will be allocated  
4 and appropriated. The net revenues shall be determined by deducting from gross  
5 revenues the payment costs incurred in the operation and administration of the  
6 lottery, including the expenses of the corporation and the costs resulting from any  
7 contract or contracts entered into for promotional, advertising, or operational  
8 services or for the purchase or lease of lottery equipment and materials, fixed  
9 capital outlays, and the payment of prizes to the holders of winning tickets. After  
10 the start-up costs are paid, it is the intent of the Legislature that it shall be the goal  
11 of the corporation to transfer each year thirty-five percent (35%) of gross revenues  
12 to the general fund for the purposes stated above.

13 (2) A Kentucky lottery trust account is established in the State Treasury. Net lottery  
14 revenues shall be credited to this restricted account as provided in subsection (1) of  
15 this section. Moneys credited to the Kentucky lottery trust account shall be invested  
16 by the state in accordance with state investment practices and all earnings from the  
17 investments shall accrue to this account. No moneys shall be allotted or expended  
18 from this account unless pursuant to an appropriation by the General Assembly,  
19 except that moneys as are needed shall be transferred to the general fund pursuant to  
20 the provisions of the Acts of the Extraordinary Session of the 1988 General  
21 Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close  
22 of the state fiscal year.

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

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

27 (b) To the reading diagnostic and intervention fund, one million eight hundred

1           thousand dollars (\$1,800,000).

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

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

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

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

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

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

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

14           3.   Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006  
15           and each fiscal year thereafter.

16   (5)   The Auditor of Public Accounts shall be responsible for a financial postaudit of the  
17       books and records of the corporation. The postaudit shall be conducted in  
18       accordance with generally accepted accounting principles, shall be paid for by the  
19       corporation, and shall be completed within ninety (90) days of the close of the  
20       corporation's fiscal year. The Auditor of Public Accounts shall contract with an  
21       independent, certified public accountant who meets the qualifications existing to do  
22       business within the Commonwealth of Kentucky to perform the corporation  
23       postaudit. The Auditor of Public Accounts shall remain responsible for the annual  
24       postaudit and the corporation shall pay all audit costs. The Auditor of Public  
25       Accounts may at any time conduct additional audits, including performance audits,  
26       of the corporation as he deems necessary or desirable. Contracts shall be entered  
27       into for audit services for a period not to exceed five (5) years and the same firm

1 shall not receive two (2) consecutive audit contracts. All audits shall be filed with  
 2 the Governor, the President of the Senate, and the Speaker of the House of  
 3 Representatives. The corporation shall reimburse the Auditor of Public Accounts  
 4 for the reasonable costs of any audits performed by him. The corporation shall  
 5 cooperate with the Auditor of Public Accounts by giving employees designated by  
 6 any of them access to facilities of the corporation for the purpose of efficient  
 7 compliance with their respective responsibilities. With respect to any  
 8 reimbursement that the corporation is required to pay to any agency, the corporation  
 9 shall enter into an agreement with that agency under which the corporation shall pay  
 10 to the agency an amount reasonably anticipated to cover the reimbursable expenses  
 11 in advance of the expenses being incurred.

12 (6) By no later than December 31 of each year, in an advertisement at least one-fourth  
 13 (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following  
 14 information in every general-circulation daily newspaper published in Kentucky:

15 (a) The statements of revenue, expenses, and changes in retained earnings as  
 16 shown in the most recent annual audit report. It shall be explained that the  
 17 transfer of dividends is the amount of lottery earnings transferred to the  
 18 general fund;

19 (b) A statement identifying the auditing firm;

20 (c) A telephone number which citizens may call to obtain a complete copy of the  
 21 annual audit report; and

22 (d) The name of the president/chief executive officer of the Kentucky Lottery  
 23 Corporation and a complete list of board members.

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

25 ➔SECTION 41. A NEW SECTION OF KRS CHAPTER 154A IS CREATED  
 26 TO READ AS FOLLOWS:

27 **(1) No person shall offer online poker in the Commonwealth unless that person has**



- 1        received a license from the corporation.
- 2        (2) The corporation shall promulgate administrative regulations prescribing  
3        requirements for vendors offering online poker gaming to the citizens of the  
4        Commonwealth. The requirements for each game or game provider shall include  
5        but not be limited to the following:
- 6        (a) Geolocation software to ensure that all online poker is conducted within the  
7        geographical confines of the state of Kentucky;
- 8        (b) Age verification to ensure that no person under the age of eighteen (18) is  
9        allowed to place wagers through online poker games;
- 10       (c) Security standards to minimize the risk of cyber theft or hacking;
- 11       (d) Accounting standards to ensure transparency and accountability of moneys,  
12       including:
- 13           1. Moneys deposited by players into gaming accounts;  
14           2. Prize payouts;  
15           3. The rake the online poker vendor receives;  
16           4. Any entry or associated fees charged to players; and
- 17       (e) Conformance with all applicable federal laws.
- 18       (3) A license to conduct online poker in the Commonwealth shall not be issued by  
19       the corporation until the proposed vendor has demonstrated to the satisfaction of  
20       the corporation that:
- 21       (a) All the requirements of subsection (2) of this section have been met;
- 22       (b) The vendor has not been convicted of a violation of the Unlawful Internet  
23       Gambling Enforcement Act of 2006, as provided in Title 31 of the United  
24       States Code, Sections 5361 to 5366; and
- 25       (c) An initial licensing fee of two hundred fifty thousand dollars (\$250,000) has  
26       been paid.
- 27       (4) A license issued under subsection (3) of this section shall be valid for one (1) year

1 and may be renewed annually for a fee of ten thousand dollars (\$10,000).

2 (5) (a) In addition to the licensing fees imposed in subsections (3) and (4) of this  
3 section, a gaming fee of six and three-quarters percent (6.75%) of net poker  
4 revenue shall be imposed on each online poker vendor.

5 (b) The gaming fee shall be paid monthly by each licensed online poker vendor  
6 to the corporation, and may be made by electronic funds transfer.

7 (6) Award of an online poker license under this section shall not absolve any person  
8 of any liability which has or may be incurred due to litigation with the  
9 Commonwealth over internet poker domain names.

10 (7) Any person who has been issued a license under this section shall have the  
11 license suspended by the corporation if a final judgment is issued against the  
12 person for the improper use of internet domain names. The license suspension  
13 shall continue until all fines and fees assessed under the judgment are fully paid.

14 ➔SECTION 42. A NEW SECTION OF KRS CHAPTER 154A IS CREATED  
15 TO READ AS FOLLOWS:

16 (1) A Kentucky Lottery Corporation online poker account is established in the State  
17 Treasury. Online poker licensing fees and the gaming fee imposed by Section 41  
18 of this Act shall be deposited in the account.

19 (2) The corporation is authorized to use money in the online poker account for the  
20 purposes of paying necessary expenses incurred in establishing and overseeing  
21 the online poker system.

22 (3) Moneys in excess of the amount needed for necessary expenses shall be deposited  
23 annually into the wagering administration fund established by Section 4 of this  
24 Act to be used for the purposes established in subsection (1)(b)2. of Section 4 of  
25 this Act.

26 (4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal  
27 year shall not lapse but shall be carried forward into the next fiscal year.

1 **(5) All moneys held in the fund shall be invested by the corporation in accordance**  
 2 **with the corporation's investment practices, and all earnings from the**  
 3 **investments shall accrue to the benefit of the fund.**

4 ➔Section 43. KRS 154A.600 is amended to read as follows:

5 (1) The corporation may purchase, lease, or lease-purchase such goods or services as  
 6 are necessary for effectuating the purposes of this chapter. Applicable leases,  
 7 purchases, and lease-purchases shall be reported to the capital projects and bond  
 8 oversight committee for its review and determination in accordance with the  
 9 provisions of KRS 45.750 to 45.810. The corporation shall not contract with any  
 10 person or entity for the total operation and administration of the state lottery, but  
 11 may make procurements which integrate functions such as lottery game design,  
 12 lottery ticket distribution to retailers, **the operation of online poker games,** supply  
 13 of goods and services, and advertising. In all procurement decisions, the corporation  
 14 shall take into account the particularly sensitive nature of the state lottery **and**  
 15 **online poker games** and shall act to promote and ensure security, honesty, fairness  
 16 and integrity in the operation and administration of the lottery **and online poker**  
 17 **games** and the objectives of raising net proceeds for the benefit of the public  
 18 purpose described in this chapter **and Section 4 of this Act.**

19 (2) The corporation shall investigate the financial responsibility, security, and integrity  
 20 of any person who submits a bid, proposal or offer as part of a major procurement  
 21 **or who applies for licensure under Section 41 of this Act.** At the time of  
 22 submitting such bid, proposal, **license application,** or offer to the corporation, the  
 23 corporation may require the following items:

24 (a) A disclosure of the vendor's name and address and, as applicable, the name  
 25 and address of the following:

- 26 1. If the vendor is a corporation, the officers, directors, and each  
 27 stockholder in such corporation; except that, in the case of owners of

- 1 equity securities of a publicly traded corporation, only the names and  
2 addresses of those known to the corporation to own beneficially five  
3 percent (5%) or more of such securities need be disclosed;
- 4 2. If the vendor is a trust, the trustee and all persons entitled to receive  
5 income or benefit from the trust;
- 6 3. If the vendor is an association, the members, officers, and directors; and  
7 4. If the vendor is a partnership or joint venture, all of the general partners,  
8 limited partners, or joint venturers.
- 9 (b) A disclosure of all the states and jurisdictions in which the vendor does  
10 business, and the nature of the business for each such state or jurisdiction.
- 11 (c) A disclosure of all the states and jurisdictions in which the vendor has  
12 contracts to supply gaming goods or services, including, but not limited to,  
13 lottery goods and services, and the nature of the goods or services involved for  
14 each such state or jurisdiction.
- 15 (d) A disclosure of all the states and jurisdictions in which the vendor has applied  
16 for, has sought renewal of, has received, has been denied, has pending, or has  
17 had revoked a gaming license of any kind, and the disposition of such in each  
18 such state or jurisdiction. If any gaming license has been revoked or has not  
19 been renewed or any gaming license application has been either denied or is  
20 pending and has remained pending for more than six (6) months, all of the  
21 facts and circumstances underlying the failure to receive such a license shall  
22 be disclosed.
- 23 (e) A disclosure of the details of any finding of guilt, in a state or federal court,  
24 against the vendor for any felony or any other criminal offense other than a  
25 traffic violation.
- 26 (f) A disclosure of the details of any bankruptcy, insolvency, reorganization, or  
27 any pending litigation of the vendor.

1 (g) Such additional disclosures and information as the corporation may determine  
 2 to be appropriate for the procurement involved. If the vendor subcontracts any  
 3 substantial portion of the work to be performed under the contract to a  
 4 subcontractor, the vendor shall disclose all of the information required by this  
 5 subsection for the subcontractor as if the subcontractor were itself a vendor.

6 (3) (a) A contract for a procurement with any vendor subject to subsection (2) of this  
 7 section who has not complied with the disclosure requirements described in  
 8 subsection (2) of this section shall not be entered into, and any contract with  
 9 such a vendor is unenforceable.

10 **(b) A license for online poker services with any vendor subject to subsection (2)**  
 11 **of this section who has not complied with the disclosure requirements**  
 12 **described in subsection (2) of this section shall not be issued.**

13 (c) Any contract **or license** with a vendor who does not comply with~~such~~  
 14 requirements for periodically updating~~such~~ disclosures during the tenure of  
 15 **the** contract **or license** as may be specified in **the**~~such~~ contract **or license**  
 16 shall be terminated by the corporation.

17 (d) This subsection and subsection (2) of this section shall be construed broadly  
 18 and liberally to achieve the ends of full disclosure of all information necessary  
 19 to allow for a full and complete evaluation by the corporation of the  
 20 competence, integrity, background and character of vendors for major  
 21 procurements **or online poker services.**

22 (4) A contract shall not be entered into with any vendor who has been found guilty of a  
 23 felony committed within the preceding ten (10) years, unless the corporation  
 24 determines that:

25 (a) The vendor has been pardoned or the vendor's civil rights have been restored;  
 26 and

27 (b) Subsequent to such findings of guilt the vendor has engaged in the kind of

- 1 law-abiding commerce and good citizenship that would reflect well upon the  
2 integrity of the lottery; or
- 3 (c) If the vendor is a firm, association, partnership, trust, corporation or other  
4 entity, the vendor has terminated its relationship with the individual whose  
5 actions directly contributed to the vendor's guilt.
- 6 (5) Each vendor shall, at the execution of the contract with the corporation, post a  
7 performance bond or letter of credit from a bank acceptable to the corporation, in an  
8 amount equal to the full amount estimated to be paid annually to the vendor under  
9 the contract. In lieu of the bond, a vendor may, to assure the faithful performance of  
10 its obligations, deposit and maintain with the State Treasurer securities that are  
11 interest bearing or accruing and that, with the exception of those specified in  
12 paragraph (a) or (b) of this subsection, are rated in one (1) of the three (3) highest  
13 classifications by an established nationally recognized investment rating service.  
14 Securities eligible under this subsection are limited to:
- 15 (a) Certificates of deposit issued by solvent banks or savings associations  
16 organized and existing under the laws of this state or under the laws of the  
17 United States and having their principal place of business in this state;
- 18 (b) United States bonds, notes, and bills for which the full faith and credit of the  
19 government of the United States is pledged for the payment of principal and  
20 interest;
- 21 (c) General obligation bonds and notes of any political subdivision of the state; or
- 22 (d) Corporate bonds of any corporation that is not an affiliate or subsidiary of the  
23 depositor. Such securities shall be held in trust and shall have at all times a  
24 market value at least equal to the full amount estimated to be paid annually to  
25 the lottery vendor under contract.
- 26 (6) Every contract entered into by the corporation pursuant to this section shall contain  
27 a provision for payment of liquidated damages to the corporation for any breach of

1 contract by the vendor.

2 (7) Each vendor shall be qualified to do business in this state and shall file appropriate  
3 tax returns as provided by the laws of this state. All contracts under this section  
4 shall be governed by the laws of this state.

5 ➔Section 44. KRS 243.500 is amended to read as follows:

6 Any license may be revoked or suspended for the following causes:

- 7 (1) Conviction of the licensee or the licensee's agent, servant, or employee for selling  
8 any illegal alcoholic beverages on the licensed premises.
- 9 (2) Making any false, material statements in an application or renewal application for a  
10 license or supplemental license.
- 11 (3) Conviction of the licensee or any of the licensee's agents, servants, or employees of:
- 12 (a) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244,  
13 or any act regulating the manufacture, sale, and transportation of alcoholic  
14 beverages within two (2) consecutive years;
- 15 (b) Two (2) misdemeanors directly or indirectly attributable to the use of  
16 alcoholic beverages within two (2 ) consecutive years; or
- 17 (c) Any felony.
- 18 (4) Failure or default of a licensee to pay an excise tax or any part of the tax or any  
19 penalties imposed by or under the provisions of any statutes, ordinances, or Acts of  
20 Congress relative to taxation, or for a violation of any related administrative  
21 regulations promulgated by the Department of Revenue.
- 22 (5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600,  
23 and 243.610, or granted under any Act of Congress relative to the regulation of the  
24 manufacture, sale, and transportation of alcoholic beverages.
- 25 (6) Setting up, conducting, operating, or keeping, on the licensed premises, any  
26 gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or  
27 facility for betting or transmitting bets on horse races; or permitting to be set up,

1 conducted, operated, kept, or engaged in, on the licensed premises, any gambling  
 2 game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility.

3 This subsection shall not apply to:

- 4 (a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;  
 5 (b) The operation of a pari-mutuel system for betting, **or the operation of sports**  
 6 **wagering**, where authorized by law;  
 7 (c) The conduct of charitable gaming by a charitable organization licensed or  
 8 permitted under KRS Chapter 238;~~[-or]~~  
 9 (d) Special temporary raffles of alcoholic beverages under KRS 243.036; **or**  
 10 **(e) The conduct of online poker licensed under Section 41 of this Act.**

- 11 (7) Conviction of the licensee, the licensee's agents, servants, or employees for:  
 12 (a) The trafficking or possession upon the licensed premises of controlled or  
 13 illegal substances described in KRS Chapter 218A, including synthetic drugs;  
 14 (b) Knowingly permitting the trafficking or possession by patrons upon the  
 15 licensed premises of controlled or illegal substances described in KRS  
 16 Chapter 218A, including synthetic drugs; or  
 17 (c) Knowingly receiving stolen property upon the licensed premises.  
 18 (8) Failure to comply with the terms of a final order of the board.

19 ➔Section 45. KRS 525.090 is amended to read as follows:

- 20 (1) A person is guilty of loitering when he **or she**:  
 21 (a) Loiters or remains in a public place for the purpose of gambling with cards,  
 22 dice, or other gambling paraphernalia, except that the provisions of this  
 23 section shall not apply if the person is participating in charitable gaming  
 24 defined by KRS 238.505, **or is engaged in sports wagering licensed under**  
 25 **KRS Chapter 230 and Section 19 of this Act**; or  
 26 (b) Loiters or remains in a public place for the purpose of unlawfully using a  
 27 controlled substance; or



1 (c) Loiters or remains in or about a school, college or university building or  
2 grounds, not having any reason or relationship involving custody of or  
3 responsibility for a pupil or student or any other specific legitimate reason for  
4 being there and not having written permission from anyone authorized to grant  
5 the same; or

6 (d) Loiters or remains in any transportation facility, unless specifically authorized  
7 to do so, for the purpose of soliciting or engaging in any business, trade or  
8 commercial transactions involving the sale of merchandise or services.

9 (2) Loitering is a violation.

10 ➔Section 46. KRS 528.010 is amended to read as follows:

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

12 (1) "Advancing gambling activity" -- A person "advances gambling activity" when,  
13 acting other than as a player, he engages in conduct that materially aids any form of  
14 gambling activity *not authorized under KRS Chapter 154A, 230, or 239*. The  
15 conduct shall include, but is not limited to, conduct directed toward the  
16 establishment of the particular game, contest, scheme, device, or activity involved;  
17 toward the acquisition or maintenance of premises, paraphernalia, equipment, or  
18 apparatus therefor; toward the solicitation or inducement of persons to participate  
19 therein; toward the actual conduct of the playing phases thereof; toward the  
20 arrangement of any of its financial or recording phases or toward any other phase of  
21 its operation. A person who gambles at a social game of chance on equal terms with  
22 other participants does not otherwise advance gambling activity by performing acts,  
23 without remuneration or fee, directed toward the arrangement or facilitation of the  
24 game as inviting persons to play, permitting the use of premises therefor and  
25 supplying equipment used therein;

26 (2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets  
27 upon the outcome of future contingent events from members of the public as a

1 business **not authorized under KRS Chapter 154A, 230, or 239;**

2 (3) "Charitable gaming" means games of chance conducted by charitable organizations  
3 licensed and regulated under the provisions of KRS Chapter 238;

4 (4) (a) "Gambling" means staking or risking something of value upon the outcome of  
5 a contest, game, gaming scheme, or gaming device which is based upon an  
6 element of chance, in accord with an agreement or understanding that  
7 someone will receive something of value in the event of a certain outcome. A  
8 contest or game in which eligibility to participate is determined by chance and  
9 the ultimate winner is determined by skill shall not be considered to be  
10 gambling.

11 (b) Gambling shall not mean charitable gaming which is licensed and regulated  
12 under ~~the provisions of~~ KRS Chapter 238, **fantasy contest wagering**  
13 **authorized under KRS Chapter 239, or activities licensed under KRS**  
14 **Chapter 154A or 230;**

15 (5) "Gambling device" means:

16 (a) Any so-called slot machine or any other machine or mechanical device an  
17 essential part of which is a drum or reel with insignia thereon, and which  
18 when operated may deliver, as a result of the application of an element of  
19 chance, any money or property, or by the operation of which a person may  
20 become entitled to receive, as the result of the application of an element of  
21 chance, any money or property;

22 (b) Any mechanical or electronic device permanently located in a business  
23 establishment, including a private club, that is offered or made available to a  
24 person to play or participate in a simulated gambling program in return for  
25 direct or indirect consideration, including but not limited to consideration paid  
26 for Internet access or computer time, or a sweepstakes entry, which when  
27 operated may deliver as a result of the application of an element of chance,

1 any money or property, or by the operation of which a person may become  
2 entitled to receive, as the result of the application of an element of chance, any  
3 money or property; or

4 (c) Any other machine or any mechanical or other device, including but not  
5 limited to roulette wheels, gambling tables and similar devices, designed and  
6 manufactured primarily for use in connection with gambling and which when  
7 operated may deliver, as the result of the application of an element of chance,  
8 any money or property, or by the operation of which a person may become  
9 entitled to receive, as the result of the application of an element of chance, any  
10 money or property;

11 (d) But, the following shall not be considered gambling devices within this  
12 definition:

- 13 1. Devices dispensing or selling combination or French pools on licensed,  
14 regular racetracks during races on said tracks;
- 15 2. Devices dispensing or selling combination or French pools on historical  
16 races at licensed, regular racetracks as lawfully authorized by the  
17 Kentucky Horse Racing Commission;
- 18 3. Electro-mechanical pinball machines specially designed, constructed, set  
19 up, and kept to be played for amusement only. Any pinball machine  
20 shall be made to receive and react only to the deposit of coins during the  
21 course of a game. The ultimate and only award given directly or  
22 indirectly to any player for the attainment of a winning score or  
23 combination on any pinball machine shall be the right to play one (1) or  
24 more additional games immediately on the same device at no further  
25 cost. The maximum number of free games that can be won, registered,  
26 or accumulated at one (1) time in operation of any pinball machine shall  
27 not exceed thirty (30) free games. Any pinball machine shall be made to

1 discharge accumulated free games only by reactivating the playing  
 2 mechanism once for each game released. Any pinball machine shall be  
 3 made and kept with no meter or system to preserve a record of free  
 4 games played, awarded, or discharged. Nonetheless, a pinball machine  
 5 shall be a gambling device if a person gives or promises to give money,  
 6 tokens, merchandise, premiums, or property of any kind for scores,  
 7 combinations, or free games obtained in playing the pinball machine in  
 8 which the person has an interest as owner, operator, keeper, or  
 9 otherwise;~~[-or]~~

10 4. Devices used in the conduct of charitable gaming;

11 **5. Devices used in the conduct of fantasy contest wagering authorized**  
 12 **under KRS Chapter 239;**

13 **6. Devices used in the conduct of online poker licensed under KRS**  
 14 **Chapter 154A; or**

15 **7. Devices used in the conduct of sports wagering licensed under KRS**  
 16 **Chapter 230;**

17 (6) "Lottery and gift enterprise" means:

18 (a) A gambling scheme in which:

19 1. The players pay or agree to pay something of value for chances,  
 20 represented and differentiated by numbers or by combinations of  
 21 numbers or by some other media, one (1) or more of which are to be  
 22 designated the winning ones; and

23 2. The ultimate winner is to be determined by a drawing or by some other  
 24 method based upon the element of chance; and

25 3. The holders of the winning chances are to receive something of value;  
 26 and

27 (b) A gift enterprise or referral sales plan which meets the elements of a lottery

1 listed in paragraph (a) of this subsection is to be considered a lottery under  
2 this chapter;

3 (7) "Mutuel" or "the numbers games" means a form of lottery in which the winning  
4 chances or plays are not determined upon the basis of a drawing or other act on the  
5 part of persons conducting or connected with the scheme, but upon the basis of the  
6 outcome or outcomes of a future contingent event or events otherwise unrelated to  
7 the particular scheme;

8 (8) "Player" means a person who engages in any form of gambling solely as a  
9 contestant or bettor, without receiving or becoming entitled to receive any profit  
10 therefrom other than personal gambling winnings, and without otherwise rendering  
11 any material assistance to the establishment, conduct, or operation of the particular  
12 gambling activity. A person who engages in "bookmaking" as defined in subsection  
13 (2) of this section is not a "player." The status of a "player" shall be a defense to any  
14 prosecution under this chapter;

15 (9) "Profiting from gambling activity" -- A person "profits from gambling activity"  
16 when, other than as a player, he *or she* accepts or receives or agrees to accept or  
17 receive money or other property pursuant to an agreement or understanding with  
18 any person whereby he *or she* participates or is to participate in the proceeds of  
19 gambling activity ***not authorized by KRS Chapter 154A, 230, or 239;***

20 (10) "Simulated gambling program" means any method ***not authorized under KRS***  
21 ***Chapter 154A, 230, or 239, which is*** intended to be used by a person playing,  
22 participating, or interacting with an electronic device that may, through the  
23 application of an element of chance, either deliver money or property or an  
24 entitlement to receive money or property; and

25 (11) "Something of value" means any money or property, any token, object, or article  
26 exchangeable for money or property, or any form of credit or promise directly or  
27 indirectly contemplating transfer of money or property or of any interest therein, or

1 involving extension of a service, entertainment, or a privilege of playing at a game  
2 or scheme without charge.

3 ➔Section 47. KRS 528.020 is amended to read as follows:

4 (1) A person is guilty of promoting gambling in the first degree when he *or she*  
5 knowingly advances or profits from unlawful gambling activity *not authorized by*  
6 *KRS 154A, 230, or 239* by:

7 (a) Engaging in bookmaking to the extent that he *or* employs or utilizes three or  
8 more persons in a bookmaking activity and receives or accepts in any one day  
9 bets totaling more than \$500; or

10 (b) Receiving in connection with a lottery or mutuel scheme or enterprise:

11 1. Money or written records from a person other than a player whose  
12 chances or plays are represented by such money or records; or

13 2. More than \$500 in any one day of money played in the scheme or  
14 enterprise; or

15 (c) Setting up and operating a gambling device.

16 (2) Promoting gambling in the first degree is a Class D felony.

17 ➔Section 48. KRS 528.070 is amended to read as follows:

18 (1) A person is guilty of permitting gambling when, having possession or control of  
19 premises which he knows are being used to advance gambling activity *not*  
20 *authorized under KRS Chapter 154A, 230, or 239*, he fails to halt or abate or  
21 attempt to halt or abate such use within a reasonable period of time.

22 (2) Permitting gambling is a Class B misdemeanor.

23 ➔Section 49. KRS 528.080 is amended to read as follows:

24 (1) A person is guilty of possession of a gambling device when, with knowledge of the  
25 character thereof, he manufactures, sells, transports, places or possesses a gambling  
26 device or conducts or negotiates any transaction affecting or designed to affect  
27 ownership, custody or use of any gambling device *not authorized under KRS*

1           Chapter 154A, 230, or 239, believing that it is to be used in the advancement of  
2           unlawful gambling activity.

3           (2) Possession of a gambling device is a Class A misdemeanor.

4           ➔Section 50. If any provision of this Act or the application thereof to any person  
5           or circumstance is held invalid, the invalidity shall not affect other provisions or  
6           applications of the Act that can be given effect without the invalid provision or  
7           application, and to this end the provisions of this Act are severable.