

Kansas Expanded Lottery Act

From the 2009 Kansas Statutes Annotated (K.S.A)

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74-8733: Kansas expanded lottery act, severability; constitutional challenges in Shawnee county district court. (a) K.S.A. 2009 Supp. 74-8733 through 74-8773, and amendments thereto, shall be known and may be cited as the Kansas expanded lottery act. The Kansas expanded lottery act shall be part of and supplemental to the Kansas lottery act.

(b) If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application.

(c) Any action challenging the constitutionality of or arising out of any provision of this act, any lottery gaming facility management contract or any racetrack gaming facility management contract entered into pursuant to this act shall be brought in the district court of Shawnee county.

History: L. 2007, ch. 110, § 2; Apr. 19.

74-8734: Lottery gaming facilities; gaming zones; gaming facility management contract requirements; privilege fees; revenue distribution; eminent domain prohibited. (a) The Kansas lottery may operate one lottery gaming facility in each gaming zone.

(b) Not more than 30 days after the effective date of this act the lottery commission shall adopt and publish in the Kansas register the procedure for receiving, considering and approving, proposed lottery gaming facility management contracts. Such procedure shall include provisions for review of competitive proposals within a gaming zone and the date by which proposed lottery gaming facility management contracts must be received by the lottery commission if they are to receive consideration.

(c) The lottery commission shall adopt standards to promote the integrity of the gaming and finances of lottery gaming facilities, which shall apply to all management contracts, shall meet or exceed industry standards for monitoring and controlling the gaming and finances of gaming facilities and shall give the executive director sufficient authority to monitor and control the gaming operation and to ensure its integrity and security.

(d) The Kansas lottery commission may approve management contracts with one or more prospective lottery gaming facility managers to manage, or construct and manage, on behalf of the state of Kansas and subject to the operational control of the Kansas lottery, a lottery gaming facility or lottery gaming enterprise at specified destination locations within the northeast, south central, southwest and southeast Kansas gaming zones where the commission determines the operation of such facility would promote tourism and economic development. The commission shall approve or disapprove a proposed management contract within 90 days after the deadline for receipt of proposals established pursuant to subsection (b).

(e) In determining whether to approve a management contract with a prospective lottery gaming facility manager to manage a lottery gaming facility or lottery gaming enterprise pursuant to this section, the commission shall take into consideration the following factors: The size of the proposed facility; the geographic area in which such facility is to be located; the proposed facility's location as a tourist and entertainment destination; the estimated number of tourists that would be attracted by the proposed facility; the number and type of lottery facility games to be operated at the proposed facility; and agreements related to ancillary lottery gaming facility operations.

(f) Subject to the requirements of this section, the commission shall approve at least one proposed lottery gaming facility management contract for a lottery gaming facility in each gaming zone.

(g) The commission shall not approve a management contract unless:

(1) (A) The prospective lottery gaming facility manager is a resident Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to financial resources to support the activities required of a lottery gaming facility manager under the Kansas expanded lottery act; and (ii) has three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law; or

(B) the prospective lottery gaming facility manager is not a resident Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to financial resources to support the activities required of a lottery gaming facility manager under the Kansas expanded lottery act; (ii) is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas and any taxing subdivision where such prospective manager is located in the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and (iii) has three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law; and

(2) the commission determines that the proposed development consists of an investment in infrastructure, including ancillary lottery gaming facility operations, of at least \$225,000,000 in the northeast and south central Kansas gaming zones and \$50,000,000 in the southeast and southwest Kansas gaming zones. The commission, in determining whether the minimum investment required by this subsection is met, shall not include any amounts derived from or financed by state or local retailers' sales tax revenues.

(h) Any management contract approved by the commission under this section shall:

(1) Have a maximum initial term of 15 years from the date of opening of the lottery gaming facility. At the end of the initial term, the contract may be renewed by mutual consent of the state and the lottery gaming facility manager;

(2) specify the total amount to be paid to the lottery gaming facility manager pursuant to the contract;

(3) establish a mechanism to facilitate payment of lottery gaming facility expenses, payment of the lottery gaming facility manager's share of the lottery gaming facility revenues and distribution of the state's share of the lottery gaming facility revenues;

(4) include a provision for the lottery gaming facility manager to pay the costs of oversight and regulation of the lottery gaming facility manager and the operations of the lottery gaming facility by the Kansas racing and gaming commission;

(5) establish the types of lottery facility games to be installed in such facility;

(6) provide for the prospective lottery gaming facility manager, upon approval of the proposed lottery gaming facility management contract, to pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the northeast or south central Kansas gaming zone and \$5,500,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the southeast or southwest Kansas gaming zone. Such fee shall be deposited in the state treasury and credited to the lottery gaming facility manager fund, which is hereby created in the state treasury;

(7) incorporate terms and conditions for the ancillary lottery gaming facility operations;

(8) designate as key employees, subject to approval of the executive director, any employees or contractors providing services or functions which are related to lottery facility games authorized by a management contract;

(9) include financing commitments for construction;

(10) include a resolution of endorsement from the city governing body, if the proposed facility is within the corporate limits of a city, or from the county commission, if the proposed facility is located in the unincorporated area of the county;

(11) include a requirement that any parimutuel licensee developing a lottery gaming facility pursuant to this act comply with all orders and rules and regulations of the Kansas racing and gaming commission with regard to the conduct of live racing, including the same minimum days of racing as specified in K.S.A. 2009 Supp. 74-8746, and amendments thereto, for operation of electronic gaming machines at racetrack gaming facilities;

(12) include a provision for the state to receive not less than 22% of lottery gaming facility revenues, which shall be paid to the expanded lottery act revenues fund established by K.S.A. 2009 Supp. 74-8768, and amendments thereto;

(13) include a provision for 2% of lottery gaming facility revenues to be paid to the problem gambling and addictions grant fund established by K.S.A. 2009 Supp. 79-4805, and amendments thereto;

(14) if the prospective lottery gaming facility manager is an American Indian tribe, include a provision that such tribe agrees to waive its sovereign immunity with respect to any actions arising from or to enforce either the Kansas expanded lottery act or any provision of the lottery gaming facility management contract; any action brought by an injured patron or by the state of Kansas; any action for purposes of enforcing the workers compensation act or any other employment or labor law; and any action to enforce laws, rules and regulations and codes pertaining to health, safety and consumer protection; and for any other purpose deemed necessary by the executive director to protect patrons or employees and promote fair competition between the tribe and others seeking a lottery gaming facility management contract;

(15) (A) if the lottery gaming facility is located in the northeast or southwest Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 3% of the lottery gaming facility revenues to the county in which the lottery gaming facility is located; or (B) if the lottery gaming facility is located in the northeast or southwest Kansas gaming zone and is located within a city, include provision for payment of an amount equal to 1.5% of the lottery gaming facility revenues to the city in which the lottery gaming facility is located and an amount equal to 1.5% of such revenues to the county in which such facility is located;

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

(17) allow the lottery gaming facility manager to manage the lottery gaming facility in a manner consistent with this act and applicable law, but shall place full, complete and ultimate ownership and operational control of the gaming operation of the lottery gaming facility with the Kansas lottery. The Kansas lottery shall not delegate and shall explicitly retain the power to overrule any action of the lottery gaming facility manager affecting the gaming operation without prior notice. The Kansas lottery shall retain full control over all decisions concerning lottery gaming facility games;

(18) include provisions for the Kansas racing and gaming commission to oversee all lottery gaming facility operations, including, but not limited to: Oversight of internal controls; oversight of security of facilities; performance of background investigations, determination of qualifications and credentialing of employees, contractors and agents of the lottery gaming facility manager and of ancillary lottery gaming facility operations, as determined by the Kansas racing and gaming commission; auditing of lottery gaming facility revenues; enforcement of all state laws and maintenance of the integrity of gaming operations; and

(19) include enforceable provisions: (A) Prohibiting the state, until July 1, 2032, from (i) entering into management contracts for more than four lottery gaming facilities or similar gaming facilities, one to be located in the northeast Kansas gaming zone, one to be located in the south central Kansas gaming zone, one to be located in the southwest Kansas gaming zone and one to be located in the southeast Kansas gaming zone, (ii) designating additional areas of the state where operation of lottery gaming facilities or similar gaming facilities would be authorized or (iii) operating an aggregate of more than 2,800 electronic gaming machines at all parimutuel licensee locations; and (B) requiring the state to repay to the lottery gaming facility manager an amount equal to the privilege fee paid by such lottery gaming facility manager, plus interest on such amount, compounded annually at the rate of 10%, if the state violates the prohibition provision described in (A).

(i) The power of eminent domain shall not be used to acquire any interest in real property for use in a lottery gaming enterprise.

(j) Any proposed management contract for which the privilege fee has not been paid to the state treasurer within 30 days after the date of approval of the management contract shall be null and void.

(k) A person who is the manager of the racetrack gaming facility in a gaming zone shall not be eligible to be the manager of the lottery gaming facility in the same zone.

(l) Management contracts authorized by this section may include provisions relating to:

(1) Accounting procedures to determine the lottery gaming facility revenues, unclaimed prizes and credits;

(2) minimum requirements for a lottery gaming facility manager to provide qualified oversight, security and supervision of the lottery facility games including the use of qualified personnel with experience in applicable technology;

(3) eligibility requirements for employees, contractors or agents of a lottery gaming facility manager who will have responsibility for or involvement with actual gaming activities or for the handling of cash or tokens;

- (4) background investigations to be performed by the Kansas racing and gaming commission;
- (5) credentialing requirements for any employee, contractor or agent of the lottery gaming facility manager or of any ancillary lottery gaming facility operation as provided by the Kansas expanded lottery act or rules and regulations adopted pursuant thereto;
- (6) provision for termination of the management contract by either party for cause; and
- (7) any other provision deemed necessary by the parties, including such other terms and restrictions as necessary to conduct any lottery facility game in a legal and fair manner.

(m) A management contract shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, except upon approval by the executive director, nor shall it be subject to being encumbered or hypothecated. The trustee of any insolvent or bankrupt lottery gaming facility manager may continue to operate pursuant to the management contract under order of the appropriate court for no longer than one year after the bankruptcy or insolvency of such manager.

(n) (1) The Kansas lottery shall be the licensee and owner of all software programs used at a lottery gaming facility for any lottery facility game.

(2) A lottery gaming facility manager, on behalf of the state, shall purchase or lease for the Kansas lottery all lottery facility games. All lottery facility games shall be subject to the ultimate control of the Kansas lottery in accordance with this act.

(o) A lottery gaming facility shall comply with any planning and zoning regulations of the city or county in which it is to be located. The executive director shall not contract with any prospective lottery gaming facility manager for the operation and management of such lottery gaming facility unless such manager first receives any necessary approval under planning and zoning requirements of the city or county in which it is to be located.

(p) Prior to expiration of the term of a lottery gaming facility management contract, the lottery commission may negotiate a new lottery gaming facility management contract with the lottery gaming facility manager if the new contract is substantially the same as the existing contract. Otherwise, the lottery gaming facility review board shall be reconstituted and a new lottery gaming facility management contract shall be negotiated and approved in the manner provided by this act.

History: L. 2007, ch. 110, § 3; L. 2014, ch. 92 § 1; July 1.

74-8735: Lottery gaming facility review board; membership; compensation; attachment to Kansas racing and gaming commission. (a) There is hereby created the lottery gaming facility review board. The board shall consist of:

- (1) Three members appointed by the governor;
- (2) two members appointed by the president of the senate; and
- (3) two members appointed by the speaker of the house of representatives.

(b) To be eligible for appointment to the board, a person shall submit to the appointing authority evidence of significant business experience, particularly in business development and location of new businesses to maximize revenue.

(c) A person shall not be eligible for appointment to the board if the person:

- (1) Is a resident of or owns property in a gaming zone;
- (2) has an interest in any business domiciled in or conducting a significant portion of its business in a gaming zone; or
- (3) has, or has had during the preceding two years, either directly or indirectly, a financial interest in or is, or has been during the preceding two years, employed by or a consultant to a prospective lottery

gaming facility manager or any ancillary lottery gaming facility operations proposed by a prospective lottery gaming facility manager.

(d) Not more than four members of the board shall be members of the same political party.

(e) The governor shall designate one member of the board to serve as chairperson of the board.

(f) The vote of at least four members of the board shall be required to take action.

(g) Subject to the limitations of appropriations therefor, members of the board shall receive such compensation as determined by the governor. Members of the board attending meetings of the board or subcommittee meetings thereof approved by the board shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(h) The board is hereby attached to the Kansas racing and gaming commission as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered by the executive director of the Kansas racing and gaming commission and the executive director shall provide office and meeting space and such clerical and other staff assistance as may be necessary to assist the board in carrying out its powers, duties and functions under this act. The board may employ any experts, consultants or other professionals at the expense of a prospective lottery gaming facility manager to provide assistance in evaluating a lottery gaming facility management contract submitted to the board.

History: L. 2007, ch. 110, § 4; Apr. 19.

74-8736: Lottery gaming facility management contract approval process; parimutuel licensees; deadlines. (a) Upon approval of a lottery gaming facility management contract by the commission, but not later than 90 days after the deadline for receipt of proposals established pursuant to subsection (b) of K.S.A. 2009 Supp. 74-8734, and amendments thereto, the executive director and the prospective lottery gaming facility manager shall execute the contract, which shall be binding upon the parties only upon a determination by the lottery gaming facility review board pursuant to this section that the contract is the best possible such contract, approval of the contract by the Kansas racing and gaming commission pursuant to this section and endorsement by resolution of the city governing body or county commission as required in K.S.A. 2009 Supp. 74-8734, and amendments thereto.

(b) Upon execution of a lottery gaming facility management contract or contracts by the executive director, the executive director shall submit such contract or contracts to the lottery gaming facility review board. The board shall determine which contract best maximizes revenue, encourages tourism and otherwise serves the interests of the people of Kansas. In making its determination, the board shall conduct public hearings, take testimony, solicit the advice of experts and investigate the merits of each contract submitted by the executive director.

(c) Within 30 days after execution of a lottery gaming facility management contract with a parimutuel licensee for development of a lottery gaming facility at a parimutuel licensee location, the parimutuel licensee must submit to the Kansas racing and gaming commission, for approval by the commission, a plan for compliance with the requirements for live racing and purse supplements established pursuant to K.S.A. 2009 Supp. 74-8745 and 74-8767, and amendments thereto. Upon application of a parimutuel licensee, the Kansas racing and gaming commission shall open a proceeding to consider such licensee's proposal for development of a lottery gaming facility at the parimutuel licensee location. Such proposal shall include provisions for: (1) Compliance with the requirements of K.S.A. 2009 Supp. 74-8745, and amendments thereto; (2) payment of purse supplements from the appropriate funds established by K.S.A. 2009 Supp. 74-8767, and amendments thereto; and (3) a plan for protecting and promoting live racing in Kansas. The Kansas racing and gaming commission shall hear evidence and testimony from all interested parties. Upon a finding by the Kansas racing and gaming commission that the proposal is in the best interest of live racing in Kansas and more beneficial to live racing than placement of electronic gaming machines at such parimutuel licensee location, the Kansas

racing and gaming commission may approve such proposal. The Kansas racing and gaming commission shall notify the lottery gaming facility review board of the commission's approval or disapproval of the proposal. If the Kansas racing and gaming commission does not approve the proposal, the lottery gaming facility review board shall not give further consideration to the lottery gaming facility management contract with the parimutuel licensee and the executive director shall direct the state treasurer to refund, without interest, the privilege fee paid pursuant to such contract.

(d) (1) Not more than 60 days after all lottery gaming facility management contracts for a lottery gaming facility in a gaming zone have been submitted to the lottery gaming facility review board, the board: (A) If more than one lottery gaming facility management contract has been submitted for a lottery gaming facility in a gaming zone, shall select by public vote the lottery gaming facility management contract, if any, which the board determines is the best possible such contract; or (B) if the executive director submits only one lottery gaming facility management contract for a lottery gaming facility in a gaming zone, shall determine whether such contract is the best possible such contract.

(2) If the board cannot reach agreement that a lottery gaming facility management contract is the best possible such contract, the board shall request the executive director to renegotiate the contract or contracts until the board determines that the best possible such contract or contracts have been executed.

(e) Upon a determination by the lottery gaming facility review board that a lottery gaming facility management contract is the best possible such contract, the board shall submit the contract to the Kansas racing and gaming commission for approval. The Kansas racing and gaming commission shall conduct such background investigations of prospective lottery gaming facility managers, their directors and officers and any other persons having an interest in such prospective managers, as determined in accordance with rules and regulations adopted by the Kansas racing and gaming commission. Upon completion of such investigations and approval of the background of the prospective lottery gaming facility manager, directors, officers and other persons having an interest in such prospective manager, but not more than 10 days after receiving the recommendation of the lottery gaming facility review board, the Kansas racing and gaming commission shall vote to approve in whole or reject in whole the recommendation of the lottery gaming facility review board. If the Kansas racing and gaming commission does not approve the background of such prospective lottery gaming facility manager, directors, officers and other persons having an interest in such prospective manager or does not approve the recommendation of the lottery gaming facility review board, the Kansas racing and gaming commission shall notify the executive director of the lottery and the process for selection of a lottery gaming facility manager shall begin again in the manner provided in K.S.A. 2009 Supp. 74-8734 and 74-8735, and amendments thereto.

(f) The deadline for receipt of proposals established pursuant to subsection (b) of K.S.A. 2009 Supp. 74-8734, and amendments thereto, the time limit imposed by subsection (a) for action by the lottery commission, the time limit imposed by subsection (d) for action by the lottery gaming facility review board or the time limit imposed by subsection (e) for action by the Kansas racing and gaming commission, upon application by the respective commission or board, may be extended by the governor for a period not to exceed 60 days if the governor, in the governor's discretion, determines that the respective commission or board has acted on good faith to comply with the time limit. Failure to comply with any such time limit, unless extended as provided by this subsection, or to comply with an extended time limit authorized by this subsection, shall render the respective commission or board subject to relief in the form of mandamus, injunction or other legal remedy.

History: L. 2007, ch. 110, § 5; Apr. 19.

74-8737: Lottery gaming facility; county election required; waiver. (a) The board of county commissioners of each county in each gaming zone shall submit by resolution to the qualified voters of the county a proposition to permit the operation of a lottery gaming facility within the county as provided in this section. The proposition shall be submitted to the voters at a special election called by the board of county commissioners for that purpose and held not more than 180 days after the effective date of this act.

(b) Upon the adoption of a resolution calling for an election pursuant to this section, the county election officer shall cause the following proposition to be placed on the ballot at the election called for that purpose: "Shall the Kansas lottery be authorized to operate a lottery gaming facility in _____ county?"

(c) If a majority of the votes cast and counted at such election is in favor of approving the operation of a lottery gaming facility within the county, the Kansas lottery may operate a lottery gaming facility in such county, subject to the provisions of this act. If a majority of the votes cast and counted at an election under this section is against permitting the operation of a lottery gaming facility within the county, the Kansas lottery shall not operate a lottery gaming facility in such county. The county election officer shall transmit a copy of the certification of the results of the election to the executive director.

(d) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

(e) The lottery commission may waive the requirement that an election be held pursuant to this section if the lottery commission determines that after December 31, 2004, and before the effective date of this act, the county has held an election of qualified voters pursuant to the county's home rule authority: (1) At which the ballot question was in substantial compliance with the requirements of this section; (2) which was administered by the county election officer in a manner consistent with the requirements of state election law; and (3) at which a majority of the votes cast and counted was in favor of the proposition.

(f) The question of the operation of a lottery gaming facility in a county may be submitted at the same election as the question of placement of electronic gaming machines at a parimutuel licensee location in the county under K.S.A. 2009 Supp. 74-8743, and amendments thereto.

History: L. 2007, ch. 110, § 6; Apr. 19.

74-8738: Certification of county election. Upon receipt of a copy of the certification of the results of the election pursuant to K.S.A. 2009 Supp. 74-8737, and amendments thereto:

(a) If the certification shows that a majority of the voters voted against the operation of a lottery gaming facility in the county, the executive director shall direct the state treasurer to refund, without interest, all privilege fees paid pursuant to lottery gaming facility management contracts for a lottery gaming facility in the county.

(b) If the certification shows that a majority of the voters voted in favor of the operation of a lottery gaming facility in the county, the executive director shall direct the state treasurer to refund, without interest, all privilege fees paid pursuant to lottery gaming facility management contracts for a lottery gaming facility in the county, other than the lottery gaming facility management contract which is binding as provided by K.S.A. 2009 Supp. 74-8736, and amendments thereto. Thereupon, the state treasurer shall transfer to the expanded lottery act revenues fund an amount equal to the privilege fee paid pursuant to the lottery gaming facility management contract which is binding as provided by K.S.A. 2009 Supp. 74-8736, and amendments thereto, the lottery gaming facility manager fund shall be abolished.

History: L. 2007, ch. 110, § 7; Apr. 19.

74-8739: Sale or service of alcohol permitted. The sale or service by lottery gaming facility managers or ancillary lottery gaming facility operations and the consumption by patrons of lottery gaming facilities of alcohol, liquor, wine, spirits, cereal malt beverages and other intoxicating liquors is hereby permitted upon and in lottery gaming facilities and ancillary lottery gaming facility operations. The provisions of K.S.A. 41-719, and amendments thereto, relating to alcoholic liquor shall not be applicable to lottery gaming facilities and ancillary lottery gaming facility operations.

History: L. 2007, ch. 110, § 8; Apr. 19.

74-8740: Contracts to place electronic gaming machines at parimutuel licensee locations. (a) Subject to the provisions of subsection (b), the Kansas lottery shall enter into racetrack gaming facility management contracts to place electronic gaming machines at parimutuel licensee locations as provided by K.S.A. 2009 Supp. 74-8741 through 74-8747, and amendments thereto.

(b) The Kansas lottery shall not place electronic gaming machines at any parimutuel licensee location unless the commission has adopted rules and regulations as provided in K.S.A. 2009 Supp. 74-8741 through 74-8747, and amendments thereto.

History: L. 2007, ch. 110, § 9; Apr. 19.

74-8741: Racetrack facility management contracts; requirements; contract shall not constitute property. (a) The executive director of the Kansas lottery shall negotiate a racetrack gaming facility management contract to place electronic gaming machines at one parimutuel licensee location in each gaming zone except the southwest Kansas gaming zone.

(b) To be eligible to enter into a racetrack gaming facility management contract the prospective racetrack gaming facility manager shall, at a minimum:

(1) Have sufficient access to financial resources to support the activities required of a racetrack gaming facility manager under the Kansas expanded lottery act; and

(2) be current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas and any taxing subdivision where such prospective manager is located in the state of Kansas, excluding items under formal appeal pursuant to applicable statutes.

(c) A racetrack gaming facility management contract shall include:

(1) The term of the contract;

(2) provisions for the Kansas racing and gaming commission to oversee all racetrack gaming facility operations, including, but not limited to: Oversight of internal controls; oversight of security of facilities; performance of background investigations, determination of qualifications and any required certification or licensing of officers, directors, board members, employees, contractors and agents of the racetrack gaming facility manager; auditing of net electronic gaming machine income and maintenance of the integrity of electronic gaming machine operations;

(3) provisions for the racetrack gaming facility manager to pay the costs of oversight and regulation of the racetrack gaming facility manager under this act and such manager's racetrack gaming facility operations by the Kansas racing and gaming commission; and

(4) enforceable provisions: (A) Prohibiting the state, until July 1, 2032, from (i) entering into management contracts for more than three[*] lottery gaming facilities or similar gaming facilities, one to be located in the northeast Kansas gaming zone, one to be located in the south central Kansas gaming zone[*] and one to be located in the southeast Kansas gaming zone, (ii) designating additional areas of the state where operation of lottery gaming facilities or similar gaming facilities would be authorized or (iii) operating an aggregate of more than 2,800 electronic gaming machines at all parimutuel licensee locations; and (B) requiring the state to repay to the racetrack gaming facility manager an amount equal

to the privilege fee paid by such racetrack gaming facility manager, plus interest on such amount, compounded annually at the rate of 10%, if the state violates the prohibition provision described in (A).

(d) Racetrack gaming facility management contracts authorized by this section may include provisions relating to:

(1) Accounting procedures to determine net electronic gaming machine income, unclaimed prizes and credits;

(2) minimum requirements for a racetrack gaming facility manager to provide qualified oversight, security and supervision of electronic gaming machines including the use of qualified personnel with experience in applicable technology;

(3) eligibility requirements for employees, contractors or agents of a racetrack gaming facility manager who will have responsibility for or involvement with electronic gaming machines or for the handling of cash or tokens;

(4) background investigations to be performed by the Kansas racing and gaming commission;

(5) credentialing or certification requirements of any employee, contractor or agent as provided by the Kansas expanded lottery act or rules and regulations adopted pursuant thereto;

(6) provision for termination of the management contract by either party for cause; and

(7) any other provision deemed necessary by the parties, including such other terms and restrictions as necessary to conduct racetrack gaming facility operations in a legal and fair manner.

(e) A person who is the manager of a lottery gaming facility in a gaming zone shall not be eligible to be the manager of the racetrack gaming facility in the same zone.

(f) A racetrack gaming facility management contract shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, except upon approval by the executive director, nor shall it be subject to being encumbered or hypothecated.

History: L. 2007, ch. 110, § 10; Apr. 19.

74-8742: Lottery commission, Kansas racing and gaming commission approval of racetrack gaming facility management contracts. The executive director shall submit the proposed racetrack gaming facility management contract to the commission for the commission's approval. Upon approval of the Kansas lottery commission, the executive director shall submit such contract to the Kansas racing and gaming commission for approval. The Kansas racing and gaming commission shall conduct such background investigations of the proposed racetrack gaming facility manager, and its officers, directors, employees, owners, agents and contractors, as determined in accordance with rules and regulations adopted by the Kansas racing and gaming commission. Upon completion of such investigations and approval of the background of the proposed racetrack gaming facility manager, and its officers, directors, employees, owners, agents and contractors, the Kansas racing and gaming commission shall vote to approve or reject the contract in whole. If the Kansas racing and gaming commission rejects the contract, the Kansas racing and gaming commission shall notify the executive director of the lottery and make recommendations regarding negotiation of the contract. The executive director may then resume negotiations with the proposed racetrack gaming facility manager.

History: L. 2007, ch. 110, § 11; Apr. 19.

74-8743: Electronic gaming machines at parimutuel racing facilities; county election required; waiver.

(a) The board of county commissioners of each county where there is a parimutuel licensee location by resolution shall submit to the qualified voters of the county a proposition to permit the placement of electronic gaming machines in the county as provided in this section. The proposition shall be submitted

to the voters at a special election called by the board of county commissioners for that purpose and held not more than 180 days after the effective date of this act.

(b) Upon the adoption of a resolution calling for an election pursuant to this section, the county election officer shall cause the following proposition to be placed on the ballot at the election called for that purpose: "Shall the Kansas Lottery be authorized to place electronic gaming machines in _____ county?"

(c) If a majority of the votes cast and counted at such election is in favor of approving the placement of electronic gaming machines in the county, the Kansas lottery may place and operate electronic gaming machines at a parimutuel licensee location in the county, subject to the provisions of this act. If a majority of the votes cast and counted at an election under this section is against permitting placement of electronic gaming machines in the county, the Kansas lottery shall not place or operate electronic gaming machines at a parimutuel licensee location in the county. The county election officer shall transmit a copy of the certification of the results of the election to the executive director.

(d) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

(e) The lottery commission may waive the requirement that an election be held pursuant to this section if the lottery commission determines that after December 31, 2004, and before the effective date of this act, the county has held an election of qualified voters pursuant to the county's home rule authority: (1) At which the ballot question was in substantial compliance with the requirements of this section; (2) which was administered by the county election officer in a manner consistent with the requirements of state election law; and (3) at which a majority of the votes cast and counted was in favor of the proposition.

(f) The question of the placement of electronic gaming machines in a county may be submitted at the same election as the question of operation of a lottery gaming facility in the county under K.S.A. 2009 Supp. 74-8737, and amendments thereto.

History: L. 2007, ch. 110, § 12; Apr. 19.

74-8744: Executive director duties; rules and regulations; electronic gaming machines, limitations on number; privilege fee. (a) In accordance with rules and regulations adopted by the commission, the executive director shall have general responsibility for the implementation and administration of the provisions of this act relating to racetrack gaming facility operations, including the responsibility to:

(1) Certify net electronic gaming machine income by inspecting records, conducting audits, having agents of the Kansas lottery on site or by any other reasonable means; and

(2) assist the commission in the promulgation of rules and regulations concerning the operation of racetrack gaming facilities, which rules and regulations shall include, without limitation, the following:

(A) The number of electronic gaming machines allocated for placement at each racetrack gaming facility, subject to the provisions of subsection (b);

(B) standards for advertising, marketing and promotional materials used by racetrack gaming facility managers;

(C) the kind, type, number and location of electronic gaming machines at any racetrack gaming facility; and

(D) rules and regulations and procedures for the accounting and reporting of the payments required from racetrack gaming facility managers under K.S.A. 2009 Supp. 74-8766, and amendments thereto, including the calculations required for such payments.

(b) Rules and regulations establishing the minimum and maximum number of electronic gaming machines allocated for placement at each racetrack gaming facility shall be adopted and published not

later than 120 days after the effective date of this act. Such rules and regulations shall be subject to the following:

(1) At least 600 electronic gaming machines shall be allocated to and placed at each racetrack gaming facility.

(2) The total number of electronic gaming machines allocated to and placed at all racetrack gaming facilities in the state shall not exceed 2,800. Until lottery gaming facility management contracts for lottery gaming facilities in all gaming zones become binding, the total number of electronic gaming machines placed at all racetrack gaming facilities shall not exceed 2,200. When lottery gaming facility management contracts for lottery gaming facilities in all gaming zones have become binding, the lottery commission shall take privilege fee bids from the lottery gaming facility manager and racetrack gaming facility manager in each gaming zone for the remaining electronic gaming machines allocated to but not yet placed at the racetrack gaming facility in such zone. The minimum bid shall be a privilege fee of \$2,500 per electronic gaming machine. If the racetrack gaming facility manager submits the highest bid, the lottery commission shall place the remaining electronic gaming machines at the racetrack gaming facility. If the lottery gaming facility manager submits the highest bid, the commission shall not place any additional electronic gaming machines at the racetrack gaming facility.

(3) In addition to any privilege fee paid pursuant to paragraph (2), each racetrack gaming facility manager shall pay a privilege fee of \$2,500 for each electronic gaming machine placed at the racetrack gaming facility for which a privilege fee is not paid pursuant to paragraph (2).

(4) The racetrack gaming facility manager shall pay the privilege fees provided by this subsection to the executive director, who shall remit the entire amount to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the expanded lottery act revenues fund.

History: L. 2007, ch. 110, § 13; Apr. 19.

74-8745: Information and data disclosure procedures; certain information confidential. (a) All information and data required to be furnished to the Kansas lottery or the Kansas racing and gaming commission pursuant to K.S.A. 2009 Supp. 74-8741 through 74-8747, and amendments thereto, or which may otherwise be obtained, relative to the finances, earnings or revenue, except the net electronic gaming machine income, of any vendor shall be considered confidential and shall not be revealed in whole or in part without permission of the vendor, except (1) in the course of the necessary administration of the Kansas expanded lottery act, (2) upon the lawful order of a court of competent jurisdiction or (3) to a duly authorized law enforcement agency.

(b) All information and data pertaining to a vendor's criminal record, family and background furnished to or obtained by the Kansas lottery or Kansas racing and gaming commission pursuant to K.S.A. 2009 Supp. 74-8741 through 74-8747, and amendments thereto, from any source shall be considered confidential and shall not be revealed, in whole or part. Such information shall be released upon the lawful order of a court of competent jurisdiction or to a duly authorized law enforcement agency.

(c) Notice of the contents of any information released, except to a duly authorized law enforcement agency pursuant to this section, shall be given to any applicant, certificate holder or vendor in a manner prescribed by the rules and regulations adopted by the commission.

History: L. 2007, ch. 110, § 14; Apr. 19.

74-8746: Requirements for electronic gaming machines at parimutuel licensee locations; Sedgwick, Wyandotte and Crawford counties; exceptions. (a) Except as provided in subsection (b):

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

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

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

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

(b) The Kansas racing and gaming commission may not grant exceptions to the requirements of subsection (a) for a parimutuel licensee conducting live racing unless such exception is in the form of an agreement which: (1) Is between the parimutuel licensee and the affected recognized greyhound or recognized horsemen's group, as defined in K.S.A. 74-8802, and amendments thereto; (2) has been approved by the appropriate official breed registering agencies; and (3) has been submitted to and approved by the commission. In the case of emergencies, weather related issues or immediate circumstances beyond the control of the licensee, the Kansas racing and gaming commission may grant an exception.

History: L. 2007, ch. 110, § 15; Apr. 19.

74-8747: Net electronic gaming machine income; distribution. (a) Net electronic gaming machine income from a racetrack gaming facility shall be distributed as follows:

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

(2) 7% of net electronic gaming machine income shall be credited to the live horse racing purse supplement fund established by K.S.A. 2009 Supp. 74-8767, and amendments thereto, except that the

amount of net electronic gaming machine income credited to the fund during any fiscal year from electronic gaming machines at a racetrack gaming facility shall not exceed an amount equal to the average of \$3,750 per electronic gaming machine at each location and any moneys in excess of such amount shall be distributed between the state and the racetrack gaming facility manager in accordance with the racetrack gaming facility management contract;

(3) 7% of net electronic gaming machine income shall be credited to the live greyhound racing purse supplement fund established by K.S.A. 2009 Supp. 74-8767, and amendments thereto, except that the amount of net electronic gaming machine income credited to the fund during any fiscal year from electronic gaming machines at a racetrack gaming facility shall not exceed an amount equal to the average of \$3,750 per electronic gaming machine at each location and any moneys in excess of such amount shall be distributed between the state and the racetrack gaming facility manager in accordance with the racetrack gaming facility management contract;

(4) (A) if the racetrack gaming facility is located in the northeast Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 3% of the racetrack gaming facility revenues[*] to the county in which the racetrack gaming facility is located; or (B) if the racetrack gaming facility is located in the northeast Kansas gaming zone and is located within a city, include provision for payment of an amount equal to 1.5% of the racetrack gaming facility revenues[*] to the city in which the racetrack gaming facility is located and an amount equal to 1.5% of such revenues to the county in which such facility is located;

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

(6) 2% of net electronic gaming machine income shall be credited to the problem gambling and addictions grant fund established by K.S.A. 2009 Supp. 79-4805, and amendments thereto;

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

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

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

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

History: L. 2007, ch. 110, § 16; Apr. 19.

74-8748: Kansas lottery commission; rules and regulations. The Kansas lottery commission, upon the recommendation of the executive director, shall adopt rules and regulations necessary to carry out the purposes of this act. Temporary rules and regulations may be adopted by the commission without being subject to the provisions and requirements of K.S.A. 77-415 through 77-438, and amendments thereto,

but shall be subject to approval by the attorney general as to legality and shall be filed with the secretary of state and published in the Kansas register.

History: L. 2007, ch. 110, § 17; Apr. 19.

74-8749: Electronic gaming machine operating criteria; pay out; link to central lottery communication system. (a) Electronic gaming machines operated pursuant to this act, including those operated as lottery facility games, shall:

- (1) Pay out an average of not less than 87% of the amount wagered over the life of the machine;
- (2) be directly linked to a central lottery communications system to provide monitoring, auditing and other available program information to the Kansas lottery;
- (3) be on-line and in constant communication with a central computer situated at a location determined by the executive director and specified in the lottery gaming facility or racetrack gaming facility management contract; and
- (4) be subject to deactivation at any time by order of the executive director.

(b) The communications systems selected by the executive director shall not limit participation to only one electronic gaming machine manufacturer, distributor, supplier or provider. The lottery gaming facility manager or racetrack gaming facility manager shall lease or purchase for the Kansas lottery and at such gaming facility manager's expense all equipment necessary to implement such central communications and auditing functions.

History: L. 2007, ch. 110, § 18; Apr. 19.

74-8750: Examination and certification of electronic gaming machines, lottery facility games; confiscation of certain machines. (a) Each specific type of electronic gaming machine and lottery facility game shall be approved by the Kansas racing and gaming commission. The Kansas racing and gaming commission shall examine prototypes of electronic gaming machines and lottery facility games and shall notify the lottery gaming facility manager or racetrack gaming facility manager which types of electronic gaming machines or lottery facility games are in compliance with the requirements of this act. The use of progressive electronic gaming machines is expressly permitted.

(b) No electronic gaming machine or lottery facility game shall be operated pursuant to this act unless the executive director of the racing and gaming commission first issues a certificate for such machine or game authorizing its use at a specified location. Each electronic gaming machine and lottery facility game shall have such certificate prominently displayed thereon. Any electronic gaming machine or lottery facility game which does not display the certificate required by this section is contraband and a public nuisance subject to confiscation by any law enforcement officer.

(c) The executive director of the racing and gaming commission shall require any manufacturer, supplier, provider, lottery gaming facility manager, racetrack gaming facility manager or other person seeking the examination and certification of electronic gaming machines or lottery facility games to pay the anticipated actual costs of the examination in advance. After the completion of the examination, the executive director of the Kansas racing and gaming commission shall refund any overpayment or charge and collect amounts sufficient to reimburse the executive director for any underpayment of actual costs. The executive director of the Kansas racing and gaming commission may contract for the examination of electronic gaming machines and lottery facility games required by this section, and may rely upon testing done by or for other states regulating electronic gaming machines or lottery facility games, if the executive director deems such testing to be reliable and in the best interest of the state of Kansas.

(d) The executive director of the Kansas lottery or the executive director of the Kansas racing and gaming commission may remove from play and confiscate any electronic gaming machine or gray

machine that does not comply with the requirements of the Kansas expanded lottery act. Any electronic gaming machine that the executive director or the executive director of the racing and gaming commission determines has been modified or the design of which has been modified without the consent of the executive director of the Kansas lottery may be removed from play, confiscated by either such executive director and disposed of in any manner allowed by law.

History: L. 2007, ch. 110, § 19; Apr. 19.

74-8751: Rules and regulations; certification of certain persons connected with lottery gaming and racetrack gaming. The Kansas racing and gaming commission, through rules and regulations, shall establish:

(a) A certification requirement, and enforcement procedure, for officers, directors, key employees and persons directly or indirectly owning a 0.5% or more interest in a lottery gaming facility manager or racetrack gaming facility manager. Such certification requirement shall include compliance with such security, fitness and background investigations and standards as the executive director of the Kansas racing and gaming commission deems necessary to determine whether such person's reputation, habits or associations pose a threat to the public interest of the state or to the reputation of or effective regulation and control of the lottery gaming facility or racetrack gaming facility. Any person convicted of any felony, a crime involving gambling or a crime of moral turpitude prior to applying for a certificate hereunder or at any time thereafter shall be deemed unfit. The Kansas racing and gaming commission shall conduct the security, fitness and background checks required pursuant to this subsection.

Certification pursuant to this subsection shall not be assignable or transferable;

(b) a certification requirement, and enforcement procedure, for those persons, including electronic gaming machine manufacturers, technology providers and computer system providers, who propose to contract with a lottery gaming facility manager, a racetrack gaming facility manager or the state for the provision of goods or services related to a lottery gaming facility or racetrack gaming facility, including management services. Such certification requirements shall include compliance with such security, fitness and background investigations and standards of officers, directors, key gaming employees and persons directly or indirectly owning a 0.5% or more interest in such entity as the executive director of the Kansas racing and gaming commission deems necessary to determine whether such person's reputation, habits and associations pose a threat to the public interest of the state or to the reputation of or effective regulation and control of the lottery gaming facility or racetrack gaming facility. Any person convicted of any felony, a crime involving gambling or a crime of moral turpitude prior to applying for a certificate hereunder or at any time thereafter shall be deemed unfit. If the executive director of the racing and gaming commission determines the certification standards of another state are comprehensive, thorough and provide similar adequate safeguards, the executive director may certify an applicant already certified in such state without the necessity of a full application and background check. The Kansas racing and gaming commission shall conduct the security, fitness and background checks required pursuant to this subsection. Certification pursuant to this subsection shall not be assignable or transferable;

(c) provisions for revocation of a certification required by subsection (a) or (b) upon a finding that the certificate holder, an officer or director thereof or a person directly or indirectly owning a 0.5% or more interest therein: (1) Has knowingly provided false or misleading material information to the Kansas lottery or its employees; or (2) has been convicted of a felony, gambling related offense or any crime of moral turpitude; and

(d) provisions for suspension, revocation or nonrenewal of a certification required by subsection (a) or (b) upon a finding that the certificate holder, an officer or director thereof or a person directly or indirectly owning a 0.5% or more interest therein: (1) Has failed to notify the Kansas lottery about a

material change in ownership of the certificate holder, or any change in the directors or officers thereof; (2) is delinquent in remitting money owed to the Kansas lottery; (3) has violated any provision of any contract between the Kansas lottery and the certificate holder; or (4) has violated any provision of the Kansas expanded lottery act or any rule and regulation adopted hereunder.

History: L. 2007, ch. 110, § 20; Apr. 19.

74-8752: Inspection; investigation; approval of advertising; annual audits; open records exception. (a)

The executive director of the Kansas lottery and the executive director of the Kansas racing and gaming commission, or their designees, may observe and inspect all electronic gaming machines, lottery facility games, lottery gaming facilities, racetrack gaming facilities and all related equipment and facilities operated by a lottery gaming facility manager or racetrack gaming facility manager.

(b) In addition to any other powers granted pursuant to this act, the executive director of the racing and gaming commission shall have the power to:

(1) Examine, or cause to be examined by any agent or representative designated by such executive director, any books, papers, records or memoranda of any lottery gaming facility manager or racetrack gaming facility manager, or of any business involved in electronic gaming machines or lottery facility games authorized pursuant to the Kansas expanded lottery act, for the purpose of ascertaining compliance with any provision of the Kansas lottery act, the Kansas expanded lottery act, or any rules and regulations adopted thereunder;

(2) investigate alleged violations of the Kansas expanded lottery act and alleged violations of any rules and regulations, orders and final decisions of the Kansas lottery commission, the executive director of the Kansas lottery, the Kansas racing and gaming commission or the executive director of the Kansas racing and gaming commission;

(3) request a court to issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any lottery gaming facility manager or racetrack gaming facility manager related to the management of the lottery gaming facility or racetrack gaming facility, or to compel the appearance of any lottery gaming facility manager or racetrack gaming facility manager for the purpose of ascertaining compliance with the provisions of the Kansas lottery act and the Kansas expanded lottery act or rules and regulations adopted thereunder;

(4) inspect and approve, prior to publication or distribution, all advertising by a lottery gaming facility manager or racetrack gaming facility manager which includes any reference to the Kansas lottery; and

(5) take any other action as may be reasonable or appropriate to enforce the provisions of the Kansas expanded lottery act and any rules and regulations, orders and final decisions of the executive director of the Kansas lottery, the Kansas lottery commission, the executive director of the Kansas racing commission or the Kansas racing and gaming commission.

(c) Appropriate security measures shall be required in any and all areas where electronic gaming machines and other lottery facility games authorized pursuant to the Kansas expanded lottery act are located or operated. The executive director of the Kansas racing and gaming commission shall approve all such security measures.

(d) The executive director of the Kansas racing and gaming commission shall require an annual audit of the operations of each lottery gaming facility and ancillary lottery gaming facility operations and each racetrack gaming facility as determined by the commission. Such audit shall be conducted by the Kansas racing and gaming commission or a licensed accounting firm approved by the executive director of the Kansas racing and gaming commission and shall be conducted at the expense of the lottery gaming facility manager or racetrack facility manager.

(e) None of the information disclosed pursuant to subsection (b) or (d) shall be subject to disclosure under the Kansas open records act, K.S.A. 45-216 et seq., and amendments thereto.

History: L. 2007, ch. 110, § 21; Apr. 19.

74-8753: Certain financing, tax abatement prohibited. (a) No revenue bonds, tax increment financing or similar financing shall be used to finance any part of any lottery gaming enterprise or any racetrack gaming facility.

(b) No state or local tax abatement shall apply to any part of any lottery gaming enterprise or any racetrack gaming facility.

History: L. 2007, ch. 110, § 22; Apr. 19.

74-8754: Claims; state and state officials held harmless; insurance provisions. Each lottery gaming facility manager and each racetrack gaming facility manager shall hold the executive director, the commission and the state harmless from and defend any and all claims which may be asserted against the executive director, the commission and the state, or the agents or employees thereof, arising from the operation of electronic gaming machines, lottery facility games or other lottery-type games pursuant to the Kansas expanded lottery act. This section may be satisfied by procurement of insurance by the lottery gaming facility manager or racetrack gaming facility manager, naming the executive director, the commission and the state as additional insured parties. Procurement of such insurance by a lottery gaming facility manager shall be a lottery gaming facility expense of the lottery gaming facility and procurement of such insurance by a racetrack gaming facility manager shall be a racetrack gaming facility expense of the racetrack gaming facility. The provisions of this section shall not apply to any claims arising from a negligent act or omission or willful or malicious misconduct of the executive director, the commission or the state, or the agents or employees thereof.

History: L. 2007, ch. 110, § 23; Apr. 19.

74-8755: Consent to any action or garnishment by lottery gaming facility manager and racetrack gaming facility manager. As a condition precedent to contracting for the privilege of being a lottery gaming facility manager or a racetrack gaming facility manager, such manager shall file with the secretary of state of this state a written and irrevocable consent that any action or garnishment proceeding may be commenced against such manager in the proper court of any county in this state by the service of process on a resident agent, and stipulating and agreeing that such service shall be valid and binding as if service had been made upon such manager. Such written consent shall state that the courts of this state have jurisdiction over the person of the lottery gaming facility manager or racetrack gaming facility manager and are the proper and convenient forum for such action and shall waive the right to request a change of jurisdiction or venue to a court outside this state and that all actions arising under this act and commenced by such manager shall be brought in this state's courts as the proper and convenient forum. Such consent shall be executed by the lottery gaming facility manager or racetrack gaming facility manager and, if a corporation, by the president and secretary of such corporate manager. Such consent shall be accompanied by a certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

History: L. 2007, ch. 110, § 24; Apr. 19.

74-8756: Wager, loan and credit restrictions; criminal penalties. (a) Wagers shall be received only from a person at the location where the electronic gaming machine or lottery facility game is authorized pursuant to the Kansas expanded lottery act. No person present at such location shall place or attempt to place a wager on behalf of another person who is not present at such location.

(b) No employee or contractor of, or other person who has any legal affiliation with, a racetrack gaming facility manager shall loan money to or otherwise extend credit to patrons of the parimutuel licensee.

(c) No employee or contractor of, or other person who has any legal affiliation with, a lottery gaming facility manager shall loan money to or otherwise extend credit to patrons of a lottery gaming facility.

(d) Violation of this section is a class A nonperson misdemeanor upon a conviction for a first offense. Violation of this section is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

History: L. 2007, ch. 110, § 25; Apr. 19.

74-8757: Lottery gaming facilities; age restrictions. (a) A person less than 21 years of age shall not be permitted in an area where electronic gaming machines or lottery facility games are being conducted, except for a person at least 18 years of age who is an employee of the lottery gaming facility manager or the racetrack gaming facility manager. No employee under age 21 shall perform any function involved in gaming by the patrons.

(b) No person under age 21 shall play or make a wager on an electronic gaming machine game or a lottery facility game.

History: L. 2007, ch. 110, § 26; Apr. 19.

74-8758: Racetrack gaming facility, lottery gaming facility wagering restrictions; penalties. (a) Except as authorized in subsection (c), it is unlawful for any racetrack gaming facility manager, or any employee or agent thereof, to allow any person to play an electronic gaming machine game at a racetrack gaming facility, or share in winnings of such person, knowing such person to be:

- (1) Less than 21 years of age;
- (2) the executive director of the Kansas lottery, a member of the Kansas lottery commission or an employee of the Kansas lottery;
- (3) the executive director, a member or an employee of the Kansas racing and gaming commission;
- (4) an officer or employee of a vendor contracting with the Kansas lottery to supply gaming equipment or tickets to the Kansas lottery for use in the operation of any lottery conducted pursuant to the Kansas expanded lottery act;
- (5) an employee or agent of the racetrack gaming facility manager;
- (6) a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or stepparent of a person described by subsection (a)(2), (a)(3), (a)(4) or (a)(5); or
- (7) a person who resides in the same household as any person described by subsection (a)(2), (a)(3), (a)(4) or (a)(5).

Violation of this subsection is a class A nonperson misdemeanor upon conviction for a first offense. Violation of this subsection is a severity level 9, nonperson felony upon conviction for the second or a subsequent offense.

(b) Except as authorized in subsection (c), it is unlawful for any lottery gaming facility manager, or its employees or agents, to allow any person to play electronic gaming machines or lottery facility games at a lottery gaming facility or share in winnings of such person knowing such person to be:

- (1) Under 21 years of age;
- (2) the executive director of the Kansas lottery, a member of the Kansas lottery commission or an employee of the Kansas lottery;

- (3) the executive director, a member or an employee of the Kansas racing and gaming commission;
- (4) an employee or agent of the lottery gaming facility manager;
- (5) an officer or employee of a vendor contracting with the Kansas lottery to supply gaming equipment to the Kansas lottery for use in the operation of any electronic gaming machine or lottery facility game conducted pursuant to the Kansas expanded lottery act;
- (6) a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or stepparent of a person described in subsection (b)(2), (b)(3), (b)(4) or (b)(5); or
- (7) a person who resides in the same household as any person described by subsection (b)(2), (b)(3), (b)(4) or (b)(5).

Violation of this subsection is a class A nonperson misdemeanor upon conviction for a first offense. Violation of this subsection is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

(c) The executive director of the Kansas racing and gaming commission may authorize in writing any employee of the Kansas racing and gaming commission and any employee of a lottery vendor to play an electronic gaming machine game or a lottery facility game to verify the proper operation thereof with respect to security and contract compliance. Any prize awarded as a result of such ticket purchase shall become the property of the Kansas lottery and be added to the prize pools of subsequent electronic gaming machine games or lottery facility games. No money or merchandise shall be awarded to any employee playing an electronic gaming machine game or a lottery facility game pursuant to this subsection.

History: L. 2007, ch. 110, § 27; Apr. 19.

74-8759: Manipulating electronic gaming machine game or lottery facility game, penalty. Except for persons acting in accordance with rules and regulations of the Kansas racing and gaming commission or by written authority of the executive director of the Kansas racing and gaming commission in performing installation, maintenance and repair services, any person who, with the intent to manipulate the outcome, pay out or operation of an electronic gaming machine game or a lottery facility game, manipulates by physical, electrical or mechanical means the outcome, pay out or operation of such game shall be guilty of a severity level 8, nonperson felony.

History: L. 2007, ch. 110, § 28; Apr. 19.

74-8760: Unlawful wagering; penalties. (a) Except in accordance with rules and regulations of the Kansas racing and gaming commission or by written authority from the executive director of the Kansas racing and gaming commission in performing installation, maintenance, inspection and repair services, it is a class A nonperson misdemeanor for the following to place a wager on or play an electronic gaming machine game or a lottery facility game at a lottery gaming facility in this state: The executive director of the Kansas lottery, a member of the Kansas lottery commission or any employee or agent of the Kansas lottery; the executive director, a member or any employee or agent of the Kansas racing and gaming commission; or the lottery gaming facility manager or any employee of the lottery gaming facility manager.

(b) Except in accordance with rules and regulations of the Kansas racing and gaming commission or by written authority from the executive director of the Kansas racing and gaming commission in performing installation, maintenance, inspection and repair services, it is a class A nonperson misdemeanor for the following to place a wager on or play an electronic gaming machine at a racetrack gaming facility in this state: The executive director of the Kansas lottery, a member of the Kansas lottery commission or any employee or agent of the Kansas lottery; the executive director, a member or any

employee or agent of the Kansas racing and gaming commission; or the racetrack gaming facility manager or any employee of the racetrack gaming facility manager.

(c) It is a severity level 8, nonperson felony for any person playing or using any electronic gaming machine in Kansas knowingly to:

(1) Use other than a lawful coin or legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in an electronic gaming machine, except that in the playing of any electronic gaming machine or similar gaming device, it shall be lawful for any person to use gaming billets, tokens or similar objects therein which are approved by the Kansas racing and gaming commission;

(2) possess or use, while on premises where electronic gaming machines are authorized pursuant to the Kansas expanded lottery act, any cheating or thieving device, including, but not limited to, tools, wires, drills, coins attached to strings or wires or electronic or magnetic devices to facilitate removing from any electronic gaming machine any money or contents thereof, except that a duly authorized agent or employee of the Kansas racing and gaming commission, lottery gaming facility manager or racetrack gaming facility manager may possess and use any of the foregoing only in furtherance of the agent's or employee's employment at the lottery gaming facility or racetrack gaming facility; or

(3) possess or use while on the premises of a lottery gaming facility or racetrack gaming facility, or any location where electronic gaming machines are authorized pursuant to this act, any key or device designed for the purpose of or suitable for opening or entering any electronic gaming machine or similar gaming device or drop box.

(d) Any duly authorized agent or employee of the Kansas racing and gaming commission, a lottery gaming facility manager or a racetrack gaming facility manager may possess and use any of the devices described in subsections (c)(3) and (c)(4) in furtherance of inspection or testing as provided in the Kansas expanded lottery act or in furtherance of such person's employment at any location where any electronic gaming machine or similar gaming device or drop box is authorized pursuant to the Kansas expanded lottery act.

History: L. 2007, ch. 110, § 29; Apr. 19.

74-8761: Grey machines prohibited; penalties. It shall be a severity level 9, nonperson felony for any person to place in operation or continue to have in place any gray machine for use by members of the public at any location in this state.

History: L. 2007, ch. 110, § 30; Apr. 19.

74-8762: Restrictions on state and local officials and affiliated persons; penalties. (a) As used in this section:

(1) "Affiliated person" means:

(A) Any member of the immediate family of a state or local official; or

(B) any partnership, firm, corporation or limited liability company with which a state or local official is associated or in which a state or local official has an interest, or any partner, officer, director or employee thereof while the state or local official is associated with such partnership, firm, corporation or company.

(2) "State or local official" means any person who, on or after January 9, 2006, is:

(A) Any state officer or employee required to file a written statement of substantial interests pursuant to the state governmental ethics law and any other state officer or employee with responsibility for matters affecting activities or operations of any lottery gaming facility or racetrack gaming facility;

- (B) the governor or any full-time professional employee of the office of the governor;
- (C) any member of the legislature and any full-time professional employee of the legislature;
- (D) any justice of the supreme court, judge of the court of appeals or judge of the district court;
- (E) the head of any state agency, the assistant or deputy heads of any state agency, or the head of any division within a state agency; or
- (F) any member of the governing body of a city or county where a lottery gaming facility or racetrack gaming facility is located; any municipal or county judge of such city or county; any city, county or district attorney of such city or county; and any member of or attorney for the planning board or zoning board of such city or county and any professional planner or consultant regularly employed or retained by such planning board or zoning board.

(b) No state or local official or affiliated person shall hold, directly or indirectly, an interest in, be employed by, represent or appear for a lottery gaming facility or racetrack gaming facility, or for any lottery gaming facility manager or racetrack gaming facility manager, or any holding or intermediary company with respect thereto, in connection with any cause, application or matter.

No state or local official or affiliated person shall represent, appear for or negotiate on behalf of any person submitting a proposal for a lottery gaming facility or racetrack gaming facility, or on behalf of any lottery gaming facility manager or racetrack gaming facility manager, or any holding or intermediary company with respect thereto, in connection with any cause, application or matter.

(c) No state or local official or affiliated person, within five years immediately subsequent to the termination of the office or employment of the official, shall hold, directly or indirectly, an interest in, be employed by or represent, appear for or negotiate on behalf of any person submitting a proposal for a lottery gaming facility or racetrack gaming facility, or on behalf of any lottery gaming facility manager or racetrack gaming facility manager, in connection with any cause, application or matter, or on behalf of any holding or intermediary company with respect thereto, in connection with any phase of development of a lottery gaming facility or racetrack gaming facility or any other matter whatsoever related to activities or operations of a lottery gaming facility or racetrack gaming facility.

(d) No state or local official shall solicit or accept, directly or indirectly, any complimentary service or discount from any person submitting a proposal for a lottery gaming facility or racetrack gaming facility, or from any lottery gaming facility manager or racetrack gaming facility manager, which such official knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

(e) No state or local official shall influence, or attempt to influence, by use of official authority, the decision of the Kansas lottery commission, lottery gaming facility review board or Kansas racing and gaming commission pursuant to this act; the investigation of a proposal for a lottery gaming facility or racetrack gaming facility pursuant to this act; or any proceeding to enforce the provisions of this act or rules and regulations of the Kansas lottery commission or Kansas racing and gaming commission. Any such attempt shall be reported promptly to the attorney general.

(f) Willful violation of this section is a class A misdemeanor.

History: L. 2007, ch. 110, § 31; Apr. 19.

74-8763: Criminal history records check. Each person subject to a background check pursuant to the Kansas expanded lottery act shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the applicant and whether the person has been convicted of any crime that would disqualify the person from engaging in activities pursuant to this act. The executive director is authorized to use the information obtained from

the national criminal history record check to determine the person's eligibility to engage in such activities.

History: L. 2007, ch. 110, § 32; Apr. 19.

74-8764: Problem gambling; posting information signs; failure to post, penalty. Each lottery gaming facility manager and each racetrack gaming facility manager shall post one or more signs at the location where such manager operates electronic gaming machines or lottery facility games to inform patrons of the toll-free number available to provide information and referral services regarding compulsive or problem gambling. The text shall be determined by the executive director of the Kansas racing and gaming commission. Failure by a lottery gaming facility manager or racetrack gaming facility manager to post and maintain such signs shall be cause for the imposition of a fine not to exceed \$500 per day.

History: L. 2007, ch. 110, § 33; Apr. 19.

74-8765: Major procurement contract restrictions inapplicable. The Kansas lottery, lottery gaming facility managers, racetrack gaming facility managers, lottery gaming facility management contracts and racetrack gaming facility management contracts under the Kansas expanded lottery act shall not be subject to the provisions of and restrictions on major procurement contracts, including, but not limited to, the provisions of K.S.A. 74-8705, and amendments thereto.

History: L. 2007, ch. 110, § 34; Apr. 19.

74-8766: Expanded lottery receipts fund established; separate accounts for each facility. (a) There is hereby established in the state treasury the expanded lottery receipts fund. Separate accounts shall be maintained in such fund for receipt of moneys from each lottery gaming facility manager and racetrack gaming facility manager. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director for the purposes set forth in this act.

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

(c) The executive director shall certify weekly to the director of accounts and reports the percentages or amounts to be transferred from each account maintained in the expanded lottery receipts fund to the expanded lottery act revenues fund, the live horse racing supplement fund, the live greyhound racing purse supplement fund and the problem gambling and addictions grant fund, as provided by the lottery gaming facility management contract or K.S.A. 2009 Supp. 74-8747, and amendments thereto. Upon receipt of the certification, the director of accounts and reports shall transfer amounts from each such account in accordance with the certification of the executive director. Once each month, the executive director shall cause amounts from each such account to be paid to cities, counties and lottery gaming facility managers in accordance with the lottery gaming facility management contract and to racetrack gaming facility managers in accordance with K.S.A. 2009 Supp. 74-8747, and amendments thereto.

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

History: L. 2007, ch. 110, § 35; Apr. 19.

74-8767: Live horse racing purse and live greyhound racing purse supplemental fund; authorized uses.

(a) (1) There is hereby established in the state treasury the live horse racing purse supplement fund.

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

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

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

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

History: L. 2007, ch. 110, § 36; Apr. 19.

74-8768: Expanded lottery act revenues fund; authorized uses. There is hereby created the expanded lottery act revenues fund in the state treasury. All expenditures and transfers from such fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be expended or transferred only for the purposes of reduction of state debt, state infrastructure improvements and reduction of local ad valorem tax in the same manner as provided for allocation of amounts in the local ad valorem tax reduction fund.

History: L. 2007, ch. 110, § 37; Apr. 19.

74-8769: Background checks. Each person subject to a background check pursuant to the Kansas expanded lottery act shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the applicant and whether the person has been convicted of any crime that would disqualify the person from engaging in activities pursuant to this act. The executive director of the Kansas racing and gaming commission is authorized to use the information obtained from the national criminal history record check to determine the person's eligibility to engage in such activities.

History: L. 2007, ch. 110, § 38; Apr. 19.

74-8770: Local government taxes prohibited. (a) No taxes, fees, charges, transfers or distributions, other than those provided for in the Kansas expanded lottery act, shall be made or levied by any city, county or other municipality from or against lottery gaming facility revenues of lottery gaming facilities or net electronic gaming machine income of racetrack gaming facilities.

(b) All sales of games on electronic gaming machines authorized by the Kansas expanded lottery act shall be exempt from sales taxes imposed pursuant to K.S.A. 12-187 et seq., and 79-3601 et seq., and amendments thereto.

History: L. 2007, ch. 110, § 39; Apr. 19.

74-8771: Transportation of gaming devices, exemption from federal act. Pursuant to section 2 of the federal act entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce," 15 U.S.C. 1171 through 1777, the state of Kansas, acting by and through the duly elected and qualified members of the legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such federal act, declare and proclaims that it is exempt from the provision of section 2 of such federal act to the extent that such gambling devices as described therein are being transported to or from the Kansas lottery or to or from a lottery gaming facility or racetrack gaming facility or a location within the state of Kansas where such gambling devices are authorized pursuant to the Kansas expanded lottery act.

History: L. 2007, ch. 110, § 40; Apr. 19.

74-8772: Kansas racing and gaming commission; rules and regulations. The Kansas racing and gaming commission shall adopt such rules and regulations as the commission deems necessary to carry out the duties and functions of the commission pursuant to the Kansas expanded lottery act. Such rules and regulations shall include, but not be limited to, rules and regulations:

(a) Promoting the integrity of the gaming and finances of lottery gaming facilities and racetrack gaming facilities and shall meet or exceed industry standards for monitoring and controlling the gaming and finances of lottery gaming facility operations and racetrack gaming facility operations and shall give the Kansas racing and gaming commission sufficient authority to monitor and control the gaming operation and to ensure its integrity and security;

(b) prescribing the on-site security arrangements for lottery gaming facilities and racetrack gaming facilities;

(c) requiring reporting of information about any lottery gaming facility manager or racetrack gaming facility manager, and its employees, vendors and finances, necessary or desirable to ensure the security of lottery gaming facility and racetrack gaming facility operations. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Kansas open records act;

(d) requiring reporting and auditing of financial information of lottery gaming facility managers and racetrack gaming facility managers, including, but not limited to, the reporting of profits or losses incurred by lottery gaming facility managers and racetrack gaming facility managers and the reporting of such other information as the Kansas racing and gaming commission requires to determine compliance with the Kansas expanded lottery act and rules and regulations adopted hereunder. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Kansas open records act; and

(e) provisions for oversight of all lottery gaming facility operations and racetrack gaming facility operations, including, but not limited to, oversight of internal controls; oversight of security of facilities; performance of background investigations, determination of qualifications and credentialing of employees, contractors and agents of lottery gaming facility managers, ancillary lottery gaming facility operations and racetrack gaming facilities; auditing of lottery gaming facility revenues and net electronic gaming machine income of racetrack gaming facilities; enforcement of all state laws; and maintenance of the integrity of lottery gaming facility and racetrack gaming facility operations.

History: L. 2007, ch. 110, § 41; Apr. 19.

74-8773: Employment of officers and employees; unclassified service. The Kansas racing and gaming commission shall appoint or employ such officers and employees as the commission deems necessary to implement, administer and enforce the provisions of the Kansas expanded lottery act and may designate not more than 25 of such officers and employees to be in the unclassified service under the Kansas civil service act.

History: L. 2007, ch. 110, § 42; Apr. 19.