

Senate Substitute for HOUSE BILL No. 2155

AN ACT concerning gaming; dealing with charitable gaming; establishing the Kansas charitable gaming act; dealing with the Kansas lottery; dealing with fantasy sports; amending K.S.A. 74-8704, 74-8718 and 74-8720 and K.S.A. 2014 Supp. 21-6403 and 79-3603 and repealing the existing sections; also repealing K.S.A. 79-4702 and 79-4715 and K.S.A. 2014 Supp. 79-4701, 79-4701a, 79-4703, 79-4704, 79-4705, 79-4705a, 79-4706, 79-4707, 79-4708, 79-4710, 79-4711, 79-4712a, 79-4713, 79-4716, 79-4717, 79-4718 and 79-4719.

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

New Section 1. Sections 1 through 18, and amendments thereto, shall be known and may be cited as the Kansas charitable gaming act.

New Sec. 2. (a) The legislature hereby declares that charitable gaming conducted by charitable organizations is an important method of raising funds for legitimate charitable purposes and is in the public interest. The purpose of this act is to establish an effective and efficient mechanism for regulating charitable gaming which includes:

- (1) Defining the scope of charitable gaming activities;
 - (2) setting standards for the conduct of charitable gaming which insure honesty and integrity;
 - (3) providing for means of accounting for all moneys generated through the conduct of charitable gaming; and
 - (4) providing suitable penalties for violations of applicable laws and administrative rules and regulations.
- (b) The intent of this act is to:
- (1) Prevent the commercialization of charitable gaming;
 - (2) prevent participation in charitable gaming by criminal and other undesirable elements; and
 - (3) prevent the diversion of funds from legitimate charitable purposes.
- (c) In order to carry out the purpose and intent, the provisions of this act and any administrative rules and regulations promulgated in accordance with this act shall be construed in the public interest and strictly enforced.

New Sec. 3. As used in this act:

- (a) "Act" means the Kansas charitable gaming act.
 - (b) "Administrator" means the administrator of charitable gaming designated by the secretary pursuant to section 16, and amendments thereto.
 - (c) "Bingo" or "games of bingo" means the games of call bingo and instant bingo.
 - (d) "Bingo face" or "face" means a piece of paper which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by a number, letter or combination of numbers and letters. Only the center square shall be designated with the word "free." No two bingo faces in the same game shall be identical. Faces shall be disposable and shall not be reused after the game in which a player has used such face.
 - (e) "Call bingo" means a game in which: (1) Each player pays a charge; (2) a prize or prizes are awarded to the winner or winners; (3) each player receives one or more cards or faces; and (4) each player covers the squares on each card or face as the operator of such game announces a number, letter or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically from a receptacle in which have been placed objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first covering properly a predetermined and announced pattern of squares upon the card or face being used by such player or players.
- "Call bingo" shall include any regular, special, mini and progressive game of bingo.
- (f) "Charitable gaming" means bingo, including call bingo, and instant bingo and charitable raffles.
 - (g) "Charitable raffle" means a raffle conducted by a nonprofit religious, charitable, fraternal, educational or veterans' organization.
 - (h) "Department" means the department of revenue.
 - (i) "Director" means the director of taxation.
 - (j) "Distributor" means any person or entity that sells or distributes instant bingo tickets, bingo cards or bingo faces.
 - (k) "Electronic gaming device" means a device that, as a result of the insertion of a coin or other object, operates, either completely automat-

ically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value.

(l) “Instant bingo” means a game: (1) In which each player pays a charge; (2) in which a prize or prizes are awarded to the winner or winners; (3) in which each player receives one or more disposable pull-tab or break-open tickets which accord a player an opportunity to win something of value by opening or detaching the paper covering from the back of the ticket to reveal a set of numbers, letters, symbols or configurations, or any combination thereof; (4) which is conducted by a licensee under this act; (5) the conduct of which must be in the presence of the players; and (6) which does not utilize any dice, normal playing cards, instant ticket with a removable latex covering or slot machines.

Winners of instant bingo shall be determined either: (1) By a combination of letters, numbers or symbols determined and posted prior to the sale of instant bingo tickets; (2) by matching a letter, number or symbol under a tab of an instant bingo ticket with the winning letter, number or symbol in a designated call game of bingo during the same session; or (3) by matching a letter, number or symbol under a tab of an instant bingo ticket with one or more letters, numbers or symbols announced in, or as a continuation of, a designated call game of bingo during the same session.

“Instant bingo” shall not include any game utilizing electronically generated or computer-generated tickets.

(m) “Lessor” means the owner, co-owner, lessor or sublessor of premises upon which a licensee is permitted to manage, operate or conduct games of bingo.

(n) “Licensee” means any nonprofit organization holding a license to manage, operate or conduct games of bingo or charitable raffles pursuant to sections 1 through 18, and amendments thereto. A license shall be required for each affiliated organization of any state or national nonprofit religious, charitable, fraternal, educational or veteran’s organization.

(o) “Mini bingo” means a game of call bingo in which the prizes awarded are not less than 50% of the gross receipts derived from the sale of cards or faces for participation in the game.

(p) “Net proceeds” means the gross receipts received by the licensee from charges imposed on players for participation in games of bingo or raffles and any admission fees or charges less amounts actually paid as prizes in games of bingo or raffles and any tax payable by the licensee.

(q) “Nonprofit religious organization” means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society of individuals united for religious purposes at a definite place and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined by the administrator to be organized and created as a bona fide religious organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) or section 501(d) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit religious organization by the administrator.

(r) “Nonprofit charitable organization” means any organization which is organized and operated for:

(1) The relief of poverty, distress, or other condition of public concern within this state;

(2) financially supporting the activities of a charitable organization as defined in paragraph (1); or

(3) conferring direct benefits on the community at large; and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization and has been determined by the administrator to be organized and operated as a bona fide charitable organization and which has been exempted from the payment of federal income taxes as provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit charitable organization by the administrator.

(s) “Nonprofit fraternal organization” means any organization within

this state which exists for the common benefit, brotherhood, or other interests of its members and is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose within this state and has been determined by the administrator to be organized and operated as a bona fide fraternal organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit fraternal organization by the administrator.

(t) “Nonprofit educational organization” means any public or private elementary or secondary school or institution of higher education which has been determined by the administrator to be organized and operated as a bona fide educational organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit educational organization by the administrator.

(u) “Nonprofit veterans’ organization” means any organization within this state or any branch, lodge or chapter of a national or state organization within this state, the membership of which consists exclusively of individuals who qualify for membership because they were or are members of the armed services or forces of the United States, or an auxiliary unit or society of such a nonprofit veterans’ organization, the membership of which consists exclusively of individuals who were or are members of the armed services or forces of the United States, or are cadets, or are spouses, widows or widowers of individuals who were or are members of the armed services or forces of the United States, and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and has been determined by the administrator to be organized and operated as a bona fide veterans’ organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit veterans’ organization by the administrator.

(v) “Person” means any natural person, corporation, partnership, trust or association.

(w) “Premises” means any room, hall, building, enclosure or outdoor area used for the management, operation or conduct of a game of bingo by a licensee.

(x) “Progressive bingo” means a game of call bingo in which either the established prize amount or number of bingo balls or objects called, or both, may be increased from one session to the next scheduled session if no player completes the required pattern within the specified number of bingo balls or objects drawn. The player’s opportunity to win shall increase as the prize amount increases.

(y) “Raffle” means a game of chance in which each participant buys a ticket or tickets from a nonprofit organization with each ticket providing an equal chance to win a prize and the winner being determined by a random drawing.

(z) “Reusable bingo card” means a reusable card which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by a number, letter or combination of numbers and letters. Only the center square shall be designated with the word “free.” No two cards in the same game shall be identical.

(aa) “Secretary” means the secretary of revenue or the secretary’s designee.

(bb) “Session” means a day on which a licensee conducts games of bingo.

New Sec. 4. (a) The power to regulate, license and tax the management, operation and conduct of and participation in games of bingo and raffles is hereby vested exclusively in the state.

(b) The raffle of a motor vehicle shall be deemed an isolated or occasional sale of such motor vehicle to the raffle winner and subject to

retailer's sales tax pursuant to K.S.A. 79-3603(o), and amendments thereto.

New Sec. 5. (a) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization desiring to manage, operate or conduct games of bingo or raffles within the state of Kansas may make application for a license therefor in the manner provided under this section. Application for licenses required under the provisions of this act shall be made to the administrator upon forms prescribed by the administrator. The application shall contain:

(1) The name and address of the organization;

(2) the particular place or location or multiple locations or premises for which a license is desired;

(3) a sworn statement verifying that such organization is a bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization authorized to operate within the state of Kansas signed by the presiding officer and secretary of the organization; and

(4) such other information as may be required by the administrator.

(b) An application for a bingo license required under the provisions of this act shall be accompanied by a fee of \$25.

(c) (1) No license shall be required for any nonprofit religious, charitable, fraternal, educational or veterans' organization which conducts raffles the annual gross receipts which do not exceed \$25,000.

(2) Any such nonprofit organization which has annual gross receipts exceeding \$25,000 from raffles shall pay an annual fee according to the following schedule:

(A) Nonprofit organizations where annual gross receipts are more than \$25,000 but do not exceed \$50,000 shall pay a license fee of \$25.

(B) Nonprofit organizations where annual gross receipts which exceed \$50,000 but do not exceed \$75,000 shall pay a license fee of \$50.

(C) Nonprofit organizations where annual gross receipts exceed \$75,000 but do not exceed \$100,000 shall pay a license fee of \$75.

(D) Nonprofit organizations where annual gross receipts exceed \$100,000 shall pay a fee of \$100.

(3) Upon recommendations of the administrator, the secretary shall adopt rules and regulations to implement the license requirements for nonprofit organizations conducting raffles.

(d) No charitable gaming licensee shall use an electronic gaming device to sell raffle tickets or to conduct raffles. No raffle licensee shall contract with a professional raffle or lottery vendor to manage, operate or conduct any raffle.

(e) All licenses issued under the provisions of this act shall be issued in the name of the organization licensed.

(f) No bingo license or raffle license shall be issued to any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization if any of its officers, directors or officials:

(1) Have been convicted of, have pleaded guilty to or pleaded nolo contendere to a violation of gambling laws of any state or the gambling laws of the United States, or shall have forfeited bond to appear in court to answer charges for any such violation, or have been convicted or pleaded guilty or pleaded nolo contendere to the violation of any law of this or any other state which is classified as a felony under the laws of such state; or

(2) at the time of application for renewal of a bingo license or raffle license issued hereunder would not be eligible for such license upon a first application.

(g) Each bingo license, raffle license and bingo certificate issued shall expire at midnight on June 30 following its date of issuance.

(h) A bingo licensee may hold only one license. Any licensee may operate or conduct games of bingo at locations that are specified in the license. However, any licensee may operate or conduct games of bingo at locations other than that specified in the license upon approval of the administrator. If any licensee does operate or conduct games of bingo under this provision at a location other than that specified in the license, such licensee shall submit a written notification to the administrator, three days prior to operating or conducting bingo at such other location. No organization shall be issued a license to operate or conduct games of bingo at any location outside the county or an adjoining county within which

such organization is located as reported in its application for licensure pursuant to subsection (a). Licenses issued under the provisions of this act shall not be transferred or assignable. If any organization licensed to play bingo changes any of its officers, directors or officials during the term of its bingo license, such organization shall report the names and addresses of such individuals to the administrator immediately with the sworn statement of each such individual as required by this section on forms prescribed by the administrator. No organization which denies its membership to persons for the reason of their race, color or physical handicap, shall be granted or allowed to retain a license issued under the authority of this act. Except for nonprofit adult care homes licensed under the laws of the state of Kansas, no license shall be issued to any organization under the provisions of this act which has not been in existence continuously within the state of Kansas for a period of 18 months immediately preceding the date of making application for a license. The licensee shall display the license in a prominent place in the vicinity of the area where it is to conduct bingo.

(i) No lessor of premises used for the management, operation or conduct of any games of bingo shall permit the management, operation or conduct of bingo games on such premises unless such lessor has been issued a registration certificate by the administrator. Application for registration shall be accompanied by a fee of \$100. Such application shall be made upon forms prescribed by the administrator and shall be submitted to the administrator. The application shall contain:

(1) The name or names of the lessor of the premises which will be used for the management, operation or conduct of any games of bingo including, in the case of a corporation, partnership, association, trust or other entity, the names of all individuals having more than a 10% ownership interest, either directly or indirectly in such entity;

(2) the address of such premises;

(3) the name or names of any and all organizations which will manage, operate or conduct any games of bingo on such premises during the period for which the registration certificate is valid; and

(4) such other information as may be required by the administrator.

(j) Each registration certificate, or renewal thereof, issued under the provisions of subsection (g) shall expire at midnight on June 30 following its date of issuance. The certificate of registration shall be valid for only one premises and shall be displayed in a prominent place in the registered premises.

(k) No registration certificate issued under provisions of subsection (g) shall be issued for any premises if any individual who is connected in any way, directly or indirectly, with the owner or lessor of the premises, within five years prior to registration, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

(l) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization that conducts charitable raffles for which the aggregate gross receipts from such raffles in the fiscal year does not exceed \$25,000 shall be exempt from the provisions of this section, except that such organization shall be subject to the provisions of subsection (d) regarding how such raffles are managed, operated and conducted.

New Sec. 6. For the purpose of providing revenue which may be used by the state and for the privilege of operating or conducting games of bingo under the authority of this act:

(a) There is hereby levied and there shall be collected and paid by each licensee a tax at the rate of 3% upon the gross receipts received by the licensee from charges for participation in call bingo games using reusable bingo cards and any admission fees or charges. The tax imposed by this section shall be in addition to the license fee imposed under K.S.A. 79-4703, and amendments thereto.

(b) There is hereby levied and there shall be collected and paid by each distributor a tax at a rate of \$0.002 upon each bingo face sold or distributed by the distributor to each licensee conducting call bingo games within the state of Kansas. The distributor shall include the tax due under this subsection in the sales price of each bingo face paid by the licensee and such tax shall be itemized separately on the invoice provided to the licensee.

(c) There is hereby levied and there shall be collected and paid by each distributor a tax at a rate of 1% upon the total of the printed retail sales price of all tickets in each box of instant bingo tickets sold or distributed by the distributor to each licensee conducting instant bingo games within the state of Kansas. The distributor shall include the tax due under this subsection in the sales price of each box paid by the licensee and such tax shall be itemized separately on the invoice provided to the licensee.

(d) If a distributor does not receive payment in full from a licensed organization within 60 days of the delivery of call bingo and instant bingo supplies, the supplier shall notify the department of charitable gaming in writing of the delinquency. Upon receipt of the notice of delinquency, the department of charitable gaming may revoke or suspend the license.

(e) Whenever, in the judgment of the administrator, it is necessary, in order to secure the collection of the tax due under subsection (b), the administrator shall require any distributor subject to such tax to file a bond with the director under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

New Sec. 7. (a) On dates prescribed by the administrator, every licensee conducting bingo shall make a return to the administrator upon forms prescribed by the administrator. Such form shall contain:

- (1) The name and address of the licensee;
- (2) the amount of the gross receipts received from charges for participation in games using bingo cards during the preceding reporting period;
- (3) the number of bingo faces and the name of the distributor from whom such faces were purchased or otherwise obtained during the preceding reporting period;
- (4) the amount of the gross receipts received from charges for admission to the premises for participation in games of bingo during the preceding reporting period;
- (5) the number of each denomination of instant bingo tickets sold during the preceding reporting period; and
- (6) such other information as the administrator may deem necessary.

(b) On dates prescribed by the administrator, every licensee conducting raffles for which a license fee is required pursuant to section 5, and amendments thereto, shall make a return to the administrator upon forms prescribed by the administrator. Such form shall contain:

- (1) The name and address of the licensee;
- (2) the amount of gross receipts received from raffles conducted by the licensee; and
- (3) any other information deemed necessary by the administrator.

(c) On dates prescribed by the administrator, every distributor shall make a return to the administrator upon forms prescribed by the administrator. Such form shall state:

- (1) The number of instant bingo tickets sold or distributed to each licensee;
- (2) the amount of the retail sales price of such tickets;
- (3) the number of bingo cards sold or distributed to each licensee;
- (4) the number of bingo faces sold or distributed to each licensee; and
- (5) such other information as the administrator may deem necessary.

At the time of making such return, the distributor shall remit to the administrator an amount equal to 98% of the tax due under section 6(b), and amendments thereto.

(d) If any licensee or distributor fails to make a return or remit any tax, when required to do so by the provisions of this act, except in the case of an extension of time granted by the administrator, there shall be added to the tax determined to be due a penalty of 25% of the amount of such tax, together with interest at the rate per month prescribed by K.S.A. 79-2968(a), and amendments thereto, from the date the tax was due until paid.

(e) If any tax determined and assessed by the administrator is not remitted due to fraud with intent to evade the tax imposed by this act, there shall be added thereto a penalty of 50% of the amount of such tax, together with interest at the rate per month prescribed by K.S.A. 79-

2968(a), and amendments thereto, from the date the tax was due until paid.

(f) Whenever, in the judgment of the administrator, the failure of any licensee or distributor to comply with the provisions of subsection (a), (b), (c) or (d) was due to reasonable cause, the administrator, in the administrator's discretion, may waive or reduce any of the penalties or interest imposed by this section, upon making a record of the reason therefor.

(g) The penalties imposed under this section shall be in addition to all other penalties imposed by law.

New Sec. 8. (a) For the purpose of ascertaining the correctness of any return or for the purpose of determining the receipts and remittances of any licensee or distributor, the administrator may examine any books, papers, records or memoranda, bearing upon the matters required to be included in the records of the licensee or distributor. The administrator may require the attendance of the licensee or distributor in the county where the licensee or distributor resides, or where the location of the registered premises for bingo games or raffles are located, or of any person having knowledge relating to such records, and may take testimony and require proof of such person or persons.

(b) The administrator may issue subpoenas to compel access to or for the production of such books, papers, records or memoranda in the custody of or to which the licensee or distributor has access, or to compel the appearance of such persons. The administrator may issue interrogatories to any such person to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in the district court. The administrator may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena or interrogatory or to testify to any matter regarding which such person lawfully may be questioned, the district court of any county, upon application of the administrator, may order such person to comply with such subpoena or interrogatory or to testify. Failure to obey the court's order may be punished by the court as contempt. Subpoenas or interrogatories issued under the provisions of this section may be served upon individuals and corporations in the manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the administrator.

New Sec. 9. Games of bingo shall be managed, operated and conducted in accordance with the Kansas charitable gaming act and rules and regulations adopted pursuant thereto and the following restrictions:

(a) The entire gross receipts received by any licensee from the operation or conduct of games of bingo, except that portion utilized for the payment of the cost of prizes and license fees and taxes on games of bingo imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the licensee permitted to conduct that game.

(b) Games of bingo shall be managed, conducted or operated by a bona fide member or spouse of a bona fide member of the licensee or parent organization, an auxiliary unit or society or a beneficiary organization of such licensee or of the beneficiary organization. During each session of bingo there must be at least one member of the licensee organization on duty and assisting with the game. Such member must be listed with the office of charitable gaming.

(c) No person may participate in the management, conduct or operation of bingo games or raffles by a licensee if such person, within five years prior to such participation, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

(d) No person may receive any remuneration or profit for participating in the management, conduct or operation of any game of bingo or any raffle managed, conducted or operated by a licensee unless such remuneration or profit goes to the benefit of another nonprofit group. Any employee of the licensee, however, may assist in the conduct of any charitable gaming event.

(e) (1) The aggregate value of all prizes including the retail value of

all merchandise awarded or offered by a licensee in a single session to winners of games of call bingo shall not exceed \$1,200. The administrator shall increase the call bingo cap on July 1 of each year to reflect changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding fiscal year. The value of a prize awarded in a progressive or mini bingo game shall not be included when determining the limit imposed by this subsection. Any monetary prize of \$1,199 or more awarded in games of bingo shall be paid by a check drawn on the bingo trust bank account of the licensee. Any monetary prize awarded in games of bingo shall be paid by a check on the bingo trust bank account of the licensee upon the request of the winner of such award.

(2) Charitable raffle licensees shall report to the department the name and address of all raffle winners of any prize the retail value of which is \$1,199 or more.

(f) The retail value of any merchandise received by a winner of a bingo game shall be considered as the cash value for the purposes of determining the value of the prize.

(g) Each licensee shall keep a record of all games of bingo and charitable raffles managed, operated or conducted by it for a period of three years following the date the game is managed, operated or conducted.

(h) No person under the age of 18 years shall participate in the management, operation or conduct of any game of bingo managed, operated or conducted by a licensee under the provisions of this act and no licensee shall sell any instant bingo ticket to a person under the age of 18 years.

(i) No licensee shall manage, operate or conduct bingo on any leased premises or with leased equipment unless all of the terms and conditions of rental or use, including the rental of chairs, bingo equipment, tables, security guards, janitor service or any other services, are set forth in a lease submitted, approved and on file with the administrator.

(j) Every licensee who has gross receipts of \$1,000 or more received from participation in games, admission fees or charges and from any other source directly related to the operation or conduct of any games of bingo in any calendar month shall maintain a bingo trust bank account into which all such receipts are deposited daily and from which all payments are made relating to the management, operation or conduct of any games of bingo. Having once established such bingo trust bank account, the licensee shall continue to make deposits of all receipts therein. Every licensee shall notify the administrator of the name of the bank in which the bingo trust bank account is maintained, together with the number and name of the account. Every licensee who maintains a bingo trust bank account shall maintain a complete record of all deposits and withdrawals from such bank account and the same shall be available to the administrator to audit at any reasonable time.

The records required under this subsection are in addition to all other records required to be kept by the licensee. The records required by this subsection shall be maintained in the same place as all other records required to be kept by the licensee.

(k) No licensee shall purchase or obtain bingo faces or instant bingo tickets from any person or entity other than a distributor registered pursuant to section 14, and amendments thereto.

(l) All instant bingo tickets sold or distributed to licensees shall bear on the face thereof a unique serial number which shall not be repeated on the same manufacturer's form number less than every three years. All instant bingo tickets shall be sold or distributed in boxes. Each box shall be sealed by the manufacturer with a seal which includes a warning to the purchaser that the box may have been tampered with if the box was received by the purchaser with the seal broken. Each box of instant bingo tickets shall contain tickets printed in such a manner as to insure that at least 60% of the gross revenues generated by the ultimate sale of all tickets from such box shall be returned to the final purchasers of such tickets. No box of instant bingo tickets may be opened by a licensee unless all tickets contained in a previously opened box with the same form number have been sold.

(m) Each box of instant bingo tickets sold or distributed to licensees shall be accompanied by a flare which contains the following information: (1) The name of the game; (2) the manufacturer's name or logo; (3) the game form number; (4) the ticket count in the game; (5) the prize struc-

ture for the game, which includes the number of winning tickets by denomination and their respective winning symbol or number combinations; (6) the cost per ticket; (7) the game serial number; and (8) the winning numbers or symbols for the top three winning tiers set out in such a manner that each prize may be marked off as the prize is won and awarded.

(n) (1) Progressive bingo games may be conducted in conjunction with a session of bingo.

(2) A licensee shall not cease bingo operations unless all progressive bingo games are completed and prizes are awarded, unless prior approval has been received from the secretary.

(3) The rules for a progressive bingo game shall remain in effect until the game ends and the winner is determined.

(4) All progressive bingo games and rules for such games shall be described fully and posted in the house rules prior to the start of the session. Such games shall comply with requirements imposed under the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto.

(5) When a person achieves the first preannounced winning combination, the game shall be completed and the next progressive bingo game and winning combination shall be commenced with a new bingo card or face and all objects or balls in the receptacle.

(6) No progressive bingo game may exceed 20 consecutive sessions conducted by a licensee prior to awarding the established prize.

(7) If the progressive bingo game prize is not awarded at a bingo session, the progressive bingo game shall be continued at a future occasion until such time a winner is determined. The winning prize shall be the full amount. If there is no winner of a progressive bingo game at a session, a stated consolation prize in an amount not to exceed \$1,000 may be awarded. Any consolation prize shall be less than the value of the progressive bingo game prize amount.

(o) Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization that conducts charitable raffles for which the aggregate gross receipts from such raffles in the fiscal year does not exceed \$25,000 shall be exempt from the provisions of this section.

New Sec. 10. (a) The administrator, after a hearing in accordance with the provisions of the Kansas administrative procedure act, may revoke or suspend any license or registration certificate issued under the provisions of this act for any of the following reasons:

(1) The licensee or registrant has obtained the license or registration certificate by giving false information in the application therefor;

(2) the licensee or registrant has violated any of the laws of the state of Kansas or provisions of this act or any rules and regulations adopted pursuant thereto for the registration, licensing, taxing, management, conduct or operation of games of bingo or raffles; or

(3) the licensee or registrant has become ineligible to obtain a license under this act.

(b) Any action of the administrator pursuant to subsection (a) is subject to review in accordance with the Kansas judicial review act. In case of the revocation of the license of any licensee or the registration of any registrant, no new license or registration shall be issued to such lessor, sublessor or organization, or any person acting for or on its behalf, for a period of six months thereafter. No revocation or suspension of a license or registration certificate shall be for a period in excess of one year if the applicant otherwise is qualified on the date the applicant makes a new application therefor.

(c) The administrator is hereby authorized to enjoin any person from managing, operating or conducting any raffle or any games of bingo, or from leasing any premises for such purposes, if such person does not possess a valid license or registration certificate issued pursuant to the provisions of the Kansas charitable gaming act. The administrator shall be entitled to have an order restraining such person from managing, operating or conducting any raffle or any games of bingo or for any other purpose contrary to the provisions of the Kansas charitable gaming act or from leasing premises for any of such purposes. No bond shall be required for any such restraining order, nor for any temporary or permanent injunction issued in such proceedings.

New Sec. 11. (a) The administration and enforcement of the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto shall be vested in the administrator.

(b) Upon recommendation of the administrator, the secretary shall adopt all rules and regulations necessary for the administration and enforcement of the Kansas charitable gaming act by the administrator.

New Sec. 12. (a) All amounts received by or for the administrator from license and registration fees pursuant to this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state charitable gaming regulation fund, except as provided by section 13, and amendments thereto.

(b) All amounts received by or for the administrator from the tax levied pursuant to section 6, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury.

(c) There is hereby created, in the state treasury, the state charitable gaming regulation fund. Except as provided by section 13, and amendments thereto, each deposit remitted to the state treasurer pursuant to subsection (b) shall be credited to the state charitable gaming regulation fund. Except as provided by subsections (d) and (e), all moneys in the state charitable gaming regulation fund shall be expended for the administration and enforcement of the Kansas charitable gaming act, and rules and regulations adopted pursuant thereto. Such expenditures shall be made upon vouchers approved by the administrator.

(d) Except as otherwise provided by this act, all operating expenses of the administrator related to the administration and enforcement of the Kansas charitable gaming act appropriated by the legislature shall be paid from the state charitable gaming regulation fund. At the end of each fiscal year, the director of accounts and reports shall transfer to the state general fund any moneys in the state charitable gaming regulation fund on each such date in excess of the amount required to pay all operating expenses of the administrator related to the administration and enforcement of the Kansas charitable gaming act.

New Sec. 13. There is hereby created the charitable gaming refund fund in the state treasury. The Kansas charitable gaming refund fund shall be a refund clearing fund and refunds of the fees imposed under section 5, and amendments thereto, and of the tax levied under section 6, and amendments thereto, shall be made from such fund. The charitable gaming refund fund shall be maintained by the administrator from the license and registration fees received and taxes collected under the Kansas charitable gaming act in an amount sufficient for such refunds not to exceed \$10,000.

New Sec. 14. (a) No person or entity shall sell or distribute any bingo faces, bingo cards or instant bingo tickets to any licensee unless such person or entity has been issued a distributor registration certificate by the administrator. Application for registration shall be submitted to the administrator and shall be accompanied by a fee of \$500 and shall be made upon forms prescribed by the administrator.

(b) Each distributor registration certificate shall expire at midnight on June 30 following its date of issuance. Application for renewal of a registration certificate shall be submitted to the administrator and shall be accompanied by a fee of \$500 and shall be made upon forms prescribed by the administrator.

(c) The administrator shall establish, by rules and regulations adopted under the Kansas charitable gaming act, reasonable criteria for approval of applications for registration. The administrator shall refuse to register a distributor if any owner, manager or employee thereof, within five years prior to registration, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling violation in this or any other jurisdiction.

(d) All distributors shall maintain for a period of not less than three years full and complete records of all bingo cards, bingo faces and instant bingo tickets sold or distributed to licensees. Such records shall be made

available for inspection by any authorized representative of the administrator.

New Sec. 15. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the administrator, upon a finding that a licensee, lessor or distributor has violated any provision of the Kansas charitable gaming act or any rule and regulation adopted pursuant thereto, shall impose on such licensee, lessor or distributor a civil fine not exceeding \$500 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the administrator to the licensee, lessor or distributor who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee, lessor or distributor to appeal the order. Such order shall be subject to appeal and review in the manner provided by the Kansas administrative procedure act.

(c) Any fine collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state charitable gaming regulation fund.

New Sec. 16. (a) The secretary of revenue shall designate an administrator of charitable gaming. The administrator of charitable gaming shall be in the unclassified service and shall receive an annual salary fixed by the secretary of revenue and approved by the governor.

(b) Under the supervision of the secretary, the administrator of charitable gaming shall administer and enforce the provisions of the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto. The administrator's exclusive duties shall be the administration and enforcement of the Kansas charitable gaming act and any rules and regulations adopted pursuant thereto. The administrator shall be solely accountable to and report to the secretary of revenue.

New Sec. 17. If any provision of the Kansas charitable gaming act or the application thereof to any person or circumstances is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the act which can be given effect without the unconstitutional or invalid provision or application, and, to this end, the provisions of this act are severable.

New Sec. 18. (a) The department of revenue shall adopt rules and regulations governing the conduct of raffles by nonprofit religious, charitable, fraternal, educational and veterans' organizations. The rules and regulations may include, but not be limited to, standards for the preparation, sale and accountability of tickets, the conduct of drawings and the awarding of prizes.

(b) The administrator shall prepare an annual report on the operation of charitable raffles in this state. The report shall contain any recommended changes to the law to enhance the enforcement of the act. The annual report shall be submitted to the house and senate committees on federal and state affairs. The report shall be submitted on or before January 15 of each year beginning in 2016 and ending with the report due on or before January 15, 2018.

Sec. 19. K.S.A. 2014 Supp. 21-6403 is hereby amended to read as follows: 21-6403. As used in K.S.A. 2014 Supp. 21-6403 through 21-6409, and amendments thereto:

(a) "Bet" means a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(1) Bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;

(2) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in such a contest;

(3) a lottery as defined in this section;

(4) any bingo game by or for participants managed, operated or con-

ducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;

- (5) a lottery operated by the state pursuant to the Kansas lottery act;
- (6) any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act;
- (7) tribal gaming;
- (8) *charitable raffles as defined by section 3, and amendments thereto;*

or

- (9) *a fantasy sports league as defined in this section;*
- (b) “lottery” means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

- (1) A lottery operated by the state pursuant to the Kansas lottery act;
- or

- (2) tribal gaming;
- (c) “consideration” means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. “Consideration” shall not include sums of money paid by or for:

- (1) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide non-profit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of ~~subsection (c) or (d)~~ of section 501(c) or (d) of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;

- (2) participants in any lottery operated by the state pursuant to the Kansas lottery act;

- (3) participants in any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or

- (4) a person to participate in tribal gaming;
- (d) *“fantasy sports league” means any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:*

- (1) *All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;*

- (2) *all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and*

- (3) *no winning outcome is based:*
 - (A) *On the score, point spread or any performance or performances of any single real-world team or any combination of such teams; or*
 - (B) *solely on any single performance of an individual athlete in any single real-world sporting event.*

- ~~(d)~~(e) (1) “gambling device” means any:
 - (A) So-called “slot machine” or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and:

- (i) Which when operated may deliver, as the result of chance, any money or property; or

- (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

- (B) other machine, mechanical device, electronic device or other contrivance including, but not limited to, roulette wheels and similar devices,

which are equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and:

(i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or

(D) any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) “Gambling device” shall not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine, a so-called pinball machine, or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and:

(i) Which when operated does not deliver, as a result of chance, any money; or

(ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) any machine, mechanical device, electronic device or other contrivance used in tribal gaming;

~~(e)~~(f) “gambling place” means any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place;

~~(f)~~(g) “tribal gaming” means the same as in K.S.A. 74-9802, and amendments thereto; and

~~(g)~~(h) “tribal gaming commission” means the same as in K.S.A. 74-9802, and amendments thereto.

Sec. 20. K.S.A. 2014 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 6.15%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2014 Supp. 79-3673, and amendments thereto,

except that telecommunications service does not include: (1) Any interstate or international 800 or 900 service; (2) any interstate or international private communications service as defined in K.S.A. 2014 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or (5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from: (1) The sale of a rural water district benefit unit; (2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or (3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501, and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto, but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains

an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from: (1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to ~~paragraph Ninth~~ of K.S.A. 79-201 *Ninth*, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and (2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to ~~paragraphs Eighth and Ninth~~ of K.S.A. 79-201 *Eighth and Ninth*, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; ~~or~~ (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of ~~clause~~ *paragraph* (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to ~~subsections (a), (b)(1) and (b)(2)~~ of K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying

tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) “Original construction” shall mean the first or initial construction of a new building or facility. The term “original construction” shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) “building” shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) “facility” shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) “residence” shall mean only those enclosures within which individuals customarily live;

(5) “utility structure” shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) “windstorm” shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

(s) on and after January 1, 2005, the gross receipts received from the sale of prewritten computer software and the sale of the services of modifying, altering, updating or maintaining prewritten computer software, whether the prewritten computer software is installed or delivered electronically by tangible storage media physically transferred to the purchaser or by load and leave;

(t) the gross receipts received for telephone answering services;

(u) the gross receipts received from the sale of prepaid calling service and prepaid wireless calling service as defined in K.S.A. 2014 Supp. 79-3673, and amendments thereto; ~~and~~

(v) ~~the gross receipts received from the sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq., and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1, 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo faces and instant bingo tickets by licensees under K.S.A. 79-4701 section I et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section; and~~

(w) all sales of charitable raffle tickets in accordance with section 1 et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section.

Sec. 21. K.S.A. 74-8704 is hereby amended to read as follows: 74-8704. (a) The executive director shall have the power to:

(1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.

(2) Appoint, subject to the Kansas civil service act and within the limitations of appropriations therefor, all other employees of the Kansas lottery, which employees shall be in the classified service unless otherwise specifically provided by this act.

(3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the Kansas lottery, including, but not limited to, gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705, and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(5) Require lottery retailers to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of lottery tickets or shares.

(6) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder.

(7) 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 retailer, or to compel the appearance of any lottery retailer or employee of any lottery retailer, for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder. Subpoenas issued under the provisions of this subsection may be served upon natural persons and corporations in the manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(8) Administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition were in aid of a civil action in the district court.

(9) Require fingerprinting of employees and such other persons who work in sensitive areas within the lottery as deemed appropriate by the director. The director may submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such employees and persons and obtaining records of their criminal arrests and convictions.

(b) ~~The Kansas lottery shall not engage in on-site display advertising or promotion of the lottery at any amateur athletic or sporting event including, but not limited to, amateur athletic sporting events at institutions under the jurisdiction and control of the state board of regents where the majority of participating athletes are under the age of 18, including, but not limited to, events under the jurisdiction and control of the Kansas state high school activities association.~~

Sec. 22. K.S.A. 74-8718 is hereby amended to read as follows: 74-8718. (a) It is unlawful:

(1) To sell a lottery ticket or share at a price other than that fixed by rules and regulations adopted pursuant to this act;

(2) for any person other than *the Kansas lottery* or a lottery retailer authorized by the Kansas lottery to sell or resell any lottery ticket or share;

(3) to sell a lottery ticket or share to any person, knowing such person to be under 18 years of age; or

(4) to sell a lottery ticket at retail by electronic mail, the internet or telephone.

(b) (1) Violation of this section is a class A nonperson misdemeanor upon conviction for a first offense; and

(2) violation of this section is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

Sec. 23. K.S.A. 74-8720 is hereby amended to read as follows: 74-8720. (a) As nearly as practical, an amount equal to not less than 45% of the total sales of lottery tickets or shares, computed on an annual basis, shall be allocated for payment of lottery prizes.

(b) The prize to be paid or awarded for each winning ticket or share shall be paid to one natural person who is adjudged by the executive director, the director's designee or the retailer paying the prize, to be the holder of such winning ticket or share, or the person designated in writing by the holder of the winning ticket or share on a form satisfactory to the executive director, except that the prize of a deceased winner shall be paid to the duly appointed representative of the estate of such winner or to such other person or persons appearing to be legally entitled thereto.

(c) The executive director shall award the designated prize to the holder of the ticket or share upon the validation of a claim or confirmation of a winning share. The executive director shall have the authority to make payment for prizes by any means deemed appropriate upon the validation of winning tickets or shares.

(d) The right of a person to a prize drawn or awarded is not assignable.

(e) *No person under 18 years of age shall be eligible to claim a lottery prize.*

~~(e)~~(f) All prizes awarded shall be taxed as Kansas source income and shall be subject to all state and federal income tax laws and rules and regulations. State income taxes shall be withheld from prizes paid whenever federal income taxes are required to be withheld under current federal law.

~~(f)~~(g) Unclaimed prize money not payable directly by lottery retailers shall be retained for the period established by rules and regulations and if no claim is made within such period, then such unclaimed prize money shall be added to the prize pools of subsequent lottery games.

~~(g)~~(h) The state of Kansas, members of the commission and employees of the Kansas lottery shall be discharged of all further liability upon payment of a prize pursuant to this section.

~~(h)~~(i) The Kansas lottery shall not publicly disclose the identity of any person awarded a prize except upon written authorization of such person.

Sec. 24. K.S.A. 74-8704, 79-4702, 74-8718, 74-8720 and 79-4715 and K.S.A. 2014 Supp. 21-6403, 79-3603, 79-4701, 79-4701a, 79-4703, 79-4704, 79-4705, 79-4705a, 79-4706, 79-4707, 79-4708, 79-4710, 79-4711, 79-4712a, 79-4713, 79-4716, 79-4717, 79-4718 and 79-4719 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.