

## HOUSE BILL No. 2171

By Committee on Federal and State Affairs

1-29

---

1 AN ACT concerning the Kansas lottery; amending K.S.A. 74-8704 and  
2 74-8718 and K.S.A. 2014 Supp. 74-8702 and repealing the existing  
3 sections.

4

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

6 Section 1. K.S.A. 2014 Supp. 74-8702 is hereby amended to read as  
7 follows: 74-8702. As used in the Kansas lottery act, unless the context  
8 otherwise requires:

9 (a) "Ancillary lottery gaming facility operations" means additional  
10 non-lottery facility game products and services not owned and operated by  
11 the state which may be included in the overall development associated  
12 with the lottery gaming facility. Such operations may include, but are not  
13 limited to, restaurants, hotels, motels, museums or entertainment facilities.

14 (b) "Commission" means the Kansas lottery commission.

15 (c) "Electronic gaming machine" means any electronic,  
16 electromechanical, video or computerized device, contrivance or machine  
17 authorized by the Kansas lottery which, upon insertion of cash, tokens,  
18 electronic cards or any consideration, is available to play, operate or  
19 simulate the play of a game authorized by the Kansas lottery pursuant to  
20 the Kansas expanded lottery act, including, but not limited to, bingo,  
21 poker, blackjack, keno and slot machines, and which may deliver or entitle  
22 the player operating the machine to receive cash, tokens, merchandise or  
23 credits that may be redeemed for cash. Electronic gaming machines may  
24 use bill validators and may be single-position reel-type, single or multi-  
25 game video and single-position multi-game video electronic game,  
26 including, but not limited to, poker, blackjack and slot machines.  
27 Electronic gaming machines shall be directly linked to a central computer  
28 at a location determined by the executive director for purposes of security,  
29 monitoring and auditing.

30 (d) "Executive director" means the executive director of the Kansas  
31 lottery.

32 (e) "Gaming equipment" means any electric, electronic, computerized  
33 or electromechanical machine, mechanism, supply or device or any other  
34 equipment, which is: (1) Unique to the Kansas lottery and used pursuant to  
35 the Kansas lottery act; ~~and~~ (2) integral to the operation of an electronic  
36 gaming machine or lottery facility game; and (3) affects the results of an

1 electronic gaming machine or lottery facility game by determining win or  
2 loss.

3 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,  
4 which consists of Wyandotte county; (2) the southeast Kansas gaming  
5 zone, which consists of Crawford and Cherokee counties; (3) the south  
6 central Kansas gaming zone, which consists of Sedgwick and Sumner  
7 counties; and (4) the southwest Kansas gaming zone, which consists of  
8 Ford county.

9 (g) "Gray machine" means any mechanical, electro-mechanical or  
10 electronic device, capable of being used for gambling, that is: (1) Not  
11 authorized by the Kansas lottery; (2) not linked to a lottery central  
12 computer system; (3) available to the public for play; or (4) capable of  
13 simulating a game played on an electronic gaming machine or any similar  
14 gambling game authorized pursuant to the Kansas expanded lottery act.

15 (h) "Kansas lottery" means the state agency created by this act to  
16 operate a lottery or lotteries pursuant to this act.

17 (i) "Lottery" or "state lottery" means the lottery or lotteries operated  
18 pursuant to this act.

19 (j) "Lottery facility games" means any electronic gaming machines  
20 and any other games which, as of January 1, 2007, are authorized to be  
21 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-  
22 9802, and amendments thereto, located within the boundaries of this state.

23 (k) "Lottery gaming enterprise" means an entertainment enterprise  
24 which includes a lottery gaming facility authorized pursuant to the Kansas  
25 expanded lottery act and ancillary lottery gaming facility operations that  
26 have a coordinated business or marketing strategy. A lottery gaming  
27 enterprise shall be designed to attract to its lottery gaming facility  
28 consumers who reside outside the immediate area of such enterprise.

29 (l) "Lottery gaming facility" means that portion of a building used for  
30 the purposes of operating, managing and maintaining lottery facility  
31 games.

32 (m) "Lottery gaming facility expenses" means normal business  
33 expenses, as defined in the lottery gaming facility management contract,  
34 associated with the ownership and operation of a lottery gaming facility.

35 (n) "Lottery gaming facility management contract" means a contract,  
36 subcontract or collateral agreement between the state and a lottery gaming  
37 facility manager for the management of a lottery gaming facility, the  
38 business of which is owned and operated by the Kansas lottery, negotiated  
39 and signed by the executive director on behalf of the state.

40 (o) "Lottery gaming facility manager" means a corporation, limited  
41 liability company, resident Kansas American Indian tribe or other business  
42 entity authorized to construct and manage, or manage alone, pursuant to a  
43 lottery gaming facility management contract with the Kansas lottery, and

1 on behalf of the state, a lottery gaming enterprise and lottery gaming  
2 facility.

3 (p) "Lottery gaming facility revenues" means the total revenues from  
4 lottery facility games at a lottery gaming facility after all related prizes are  
5 paid.

6 (q) (1) "Lottery machine" means any machine or device that allows a  
7 player to insert cash or other form of consideration and may deliver as the  
8 result of an element of chance, regardless of the skill required by the  
9 player, a prize or evidence of a prize, including, but not limited to:

10 (A) Any machine or device in which the prize or evidence of a prize  
11 is determined by both chance and the player's or players' skill, including,  
12 but not limited to, any machine or device on which a lottery game or  
13 lottery games, such as poker or blackjack, are played; *or*

14 (B) any machine or device in which the prize or evidence of a prize is  
15 determined only by chance, including, but not limited to, any slot machine  
16 or bingo machine; ~~or~~

17 ~~(C) any lottery ticket vending machine, such as a keno ticket vending~~  
18 ~~machine, pull tab vending machine or an instant bingo vending machine.~~

19 (2) "Lottery machine" shall not mean:

20 (A) Any food vending machine defined by K.S.A. 36-501, and  
21 amendments thereto;

22 (B) any nonprescription drug machine authorized under K.S.A. 65-  
23 650, and amendments thereto;

24 (C) any machine which dispenses only bottled or canned soft drinks,  
25 chewing gum, nuts or candies;

26 (D) any machine excluded from the definition of gambling devices  
27 under ~~subsection (d) of~~ K.S.A. 21-4302(d), prior to its repeal, or K.S.A.  
28 2014 Supp. 21-6403, and amendments thereto; ~~or~~

29 (E) any electronic gaming machine or lottery facility game operated  
30 in accordance with the provisions of the Kansas expanded lottery act; *or*

31 (F) *any lottery ticket vending machine, such as a Keno ticket vending*  
32 *machine, pull tab vending machine, an instant bingo vending machine, an*  
33 *electronic ticket dispenser or similar device, operated by the Kansas*  
34 *lottery.*

35 (r) "Lottery retailer" means any person with whom the Kansas lottery  
36 has contracted to sell lottery tickets or shares, or both, to the public.

37 (s) (1) "Major procurement" means any gaming product or service,  
38 including, but not limited to, facilities, advertising and promotional  
39 services, annuity contracts, prize payment agreements, consulting services,  
40 equipment, tickets and other products and services unique to the Kansas  
41 lottery, but not including materials, supplies, equipment and services  
42 common to the ordinary operations of state agencies.

43 (2) "Major procurement" shall not mean any product, service or other

1 matter covered by or addressed in the Kansas expanded lottery act or a  
2 lottery gaming facility management contract or racetrack gaming facility  
3 management contract executed pursuant to the Kansas expanded lottery  
4 act.

5 (t) "Net electronic gaming machine income" means all cash or other  
6 consideration utilized to play an electronic gaming machine operated at a  
7 racetrack gaming facility, less all cash or other consideration paid out to  
8 winning players as prizes.

9 (u) "Organization licensee" has the meaning provided by K.S.A. 74-  
10 8802, and amendments thereto.

11 (v) "Parimutuel licensee" means a facility owner licensee or facility  
12 manager licensee under the Kansas parimutuel racing act.

13 (w) "Parimutuel licensee location" means a racetrack facility, as  
14 defined in K.S.A. 74-8802, and amendments thereto, owned or managed  
15 by the parimutuel licensee. A parimutuel licensee location may include any  
16 existing structure at such racetrack facility or any structure that may be  
17 constructed on real estate where such racetrack facility is located.

18 (x) "Person" means any natural person, association, limited liability  
19 company, corporation or partnership.

20 (y) "Prize" means any prize paid directly by the Kansas lottery  
21 pursuant to the Kansas lottery act or the Kansas expanded lottery act or  
22 any rules and regulations adopted pursuant to either act.

23 (z) "Progressive electronic game" means a game played on an  
24 electronic gaming machine for which the payoff increases uniformly as the  
25 game is played and for which the jackpot, determined by application of a  
26 formula to the income of independent, local or interlinked electronic  
27 gaming machines, may be won.

28 (aa) "Racetrack gaming facility" means that portion of a parimutuel  
29 licensee location where electronic gaming machines are operated,  
30 managed and maintained.

31 (bb) "Racetrack gaming facility management contract" means an  
32 agreement between the Kansas lottery and a racetrack gaming facility  
33 manager, negotiated and signed by the executive director on behalf of the  
34 state, for placement of electronic gaming machines owned and operated by  
35 the state at a racetrack gaming facility.

36 (cc) "Racetrack gaming facility manager" means a parimutuel  
37 licensee specifically certified by the Kansas lottery to become a certified  
38 racetrack gaming facility manager and offer electronic gaming machines  
39 for play at the racetrack gaming facility.

40 (dd) "Returned ticket" means any ticket which was transferred to a  
41 lottery retailer, which was not sold by the lottery retailer and which was  
42 returned to the Kansas lottery for refund by issuance of a credit or  
43 otherwise.

1 (ee) "Share" means any intangible manifestation authorized by the  
2 Kansas lottery to prove participation in a lottery game, except as provided  
3 by the Kansas expanded lottery act.

4 (ff) "Ticket" means any tangible evidence issued by the Kansas  
5 lottery to prove participation in a lottery game other than a lottery facility  
6 game.

7 (gg) "Token" means a representative of value, of metal or other  
8 material, which is not legal tender, redeemable for cash only by the issuing  
9 lottery gaming facility manager or racetrack gaming facility manager and  
10 which is issued and sold by a lottery gaming facility manager or racetrack  
11 gaming facility manager for the sole purpose of playing an electronic  
12 gaming machine or lottery facility game.

13 (hh) "Vendor" means any person who has entered into a major  
14 procurement contract with the Kansas lottery.

15 (ii) "Video lottery machine" means any electronic video game  
16 machine that, upon insertion of cash, is available to play or simulate the  
17 play of a video game authorized by the commission, including, but not  
18 limited to, bingo, poker, black jack and keno, and which uses a video  
19 display and microprocessors and in which, by chance, the player may  
20 receive free games or credits that can be redeemed for cash.

21 Sec. 2. K.S.A. 74-8704 is hereby amended to read as follows: 74-  
22 8704. (a) The executive director shall have the power to:

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

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

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

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

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

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

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

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

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

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

36 Sec. 3. K.S.A. 74-8718 is hereby amended to read as follows: 74-  
37 8718. (a) It is unlawful:

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

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

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

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

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

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

7 (c) *It is unlawful for a person under 18 years of age to purchase or*  
8 *attempt to purchase a lottery ticket.*

9 (d) *Any person under 18 years of age who violates subsection (c) is a*  
10 *juvenile offender under the revised Kansas juvenile justice code. Upon*  
11 *adjudication thereof and as a condition of disposition, the court shall*  
12 *require the offender to pay a fine of not less than \$200 nor more than*  
13 *\$500. In addition, the court may order the offender to perform 40 hours of*  
14 *public service.*

15 Sec. 4. K.S.A. 74-8704 and 74-8718 and K.S.A. 2014 Supp. 74-8702  
16 are hereby repealed.

17 Sec. 5. This act shall take effect and be in force from and after its  
18 publication in the statute book.