

AN ACT relating to the Kentucky lottery and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

- (1) The Kentucky Lottery Corporation, created by this chapter, has a long history of administering games for the benefit of the Commonwealth and ensuring an accurate and transparent accounting process for the proceeds generated by lottery games;*
- (2) The operation of video lottery games and video lottery terminals on behalf of the Commonwealth authorized by this chapter is part of the Kentucky state lottery as permitted by Section 226 of the Constitution of the Commonwealth of Kentucky;*
- (3) The horse racing industry is one of Kentucky's signature industries and is a prominent tourism resource for the Commonwealth. Maintaining the excellence of racing and breeding in Kentucky is of paramount importance to the Commonwealth in sustaining and advancing economic development and preserving Kentucky's cultural heritage. The horse racing industry's long history of conducting legal, regulated, pari-mutuel wagering at licensed horse racing tracks makes it uniquely capable of assimilating video lottery games and video lottery terminals into its currently authorized operations. The additional revenue to be generated by horse racing tracks through video lottery games and video lottery terminals, in addition to pari-mutuel wagering, will assist the racing industry in competing effectively with tracks in other states, and will also assist the Commonwealth in addressing the needs of the citizens of Kentucky;*
- (4) Horse racing tracks currently operate in limited areas of the Commonwealth where pari-mutuel wagering has been accepted, and the operation of video lottery*

terminals and video lottery games exclusively at racetracks would not conflict with established community moral standards; and

(5) The General Assembly's intention is to authorize and responsibly control the conduct of video lottery terminals and video lottery games by:

(a) Authorizing the operation of video lottery terminals and video lottery games on behalf of the Commonwealth as an entertainment option for Kentuckians and those who visit Kentucky from out-of-state;

(b) Limiting the locations of video lottery terminal venues to approved tracks as defined in Section 2 of this Act;

(c) Educating the public about the dangers associated with problem and compulsive gambling;

(d) Prohibiting participation in video lottery games by any person under twenty-one (21) years of age; and

(e) Strictly regulating video lottery games and video lottery terminals to promote public confidence in the honesty and integrity of those conducting it.

(6) In order to promote administrative efficiency, simplification, and the maximization of revenue while also responsibly controlling the conduct of video lottery terminals and video lottery games, the most beneficial manner and method of incorporating video lottery terminals and video lottery games into the state lottery is to authorize horse racing tracks to operate such authorized video lottery terminals and video lottery games on behalf of the Commonwealth and the corporation.

➔Section 2. KRS 154A.010 is amended to read as follows:

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

(1) "Amateur athletics" means any interscholastic athletics in which the participating athletes are elementary or secondary school students of any public or private

institution of learning; any intercollegiate athletics in which the participating athletes are students of any public or private institution of higher education; or any athletics sponsored or regulated by the following amateur athletic associations including, but not limited to:

- (a) United States Olympic Committee;
 - (b) National Collegiate Athletic Association;
 - (c) National Association of Intercollegiate Athletics;
 - (d) Kentucky High School Athletic Association;
 - (e) Kentucky Amateur Athletics Union;
 - (f) Bluegrass State Games;
 - (g) Little League Baseball;
 - (h) Amateur Softball Association;
 - (i) Babe Ruth Leagues of Kentucky;
 - (j) American Legion Baseball;
 - (k) Kentucky Youth Soccer Association; or
 - (l) Kentucky Special Olympics;
- (2) **"Approved track" means a horse racing track licensed by the Kentucky Horse Racing Authority as of January 1, 2009, which has applied and been approved for a video lottery terminal license by the corporation, and any horse racing track licensed by the Kentucky Horse Racing Authority after January 1, 2009, that meets the requirements set forth in Section 21 of this Act. The term "approved track" does not include any simulcast facility as defined in KRS 230.210;**
- (3) **"Authority" means the Kentucky Horse Racing Authority;**
- (4) "Corporation" means the Kentucky Lottery Corporation;
- (5) **"Gross terminal revenue" means the total dollar value of coins, vouchers, tokens, or other indicators of value used by persons to operate a video lottery terminal or video lottery game including the dollar amount of all moneys used in video lottery**

terminals or video lottery games that was not directly or indirectly purchased by the person operating the device;

(6) "Licensee" means an entity holding a license to operate video lottery terminals and video lottery games;

~~(7)~~~~(3)~~ "Lottery" means any game of chance approved by the corporation and operated pursuant to this chapter, *including video lottery games played on video lottery terminals. "Lottery" shall not include* ~~[except for]~~ games prohibited by the General Assembly as provided for in KRS 154A.063;

~~(8)~~~~(4)~~ "Major lottery-specific procurement" means any gaming product or service *purchased or obtained by the corporation* including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, personal service contracts, equipment, tickets, and all other products and services unique to the operation of the corporation in its lottery activities, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation. *"Major lottery-specific procurement" shall not include any product or service purchased or obtained by an approved track;*

(9) "Manufacturer" means a person who assembles from raw materials or subparts any video lottery terminals or video lottery games and electronic components of such devices, random number generators and components of such devices, and other video lottery terminal and video lottery game supplies and equipment;

(10) "Net terminal revenue" means the amount of gross terminal revenue less the total value of coins, vouchers, tokens, or other indicators of value redeemed as winnings by players, excluding any promotional free play credits or tokens;

~~(11)~~~~(5)~~ "President" means the president of the Kentucky Lottery Corporation who shall also serve as chief executive officer of the corporation;

(12) "Principal" has the same meaning as in Section 42 of this Act;

(13) "Racetrack" means a horse racing track that is licensed under Section 44 of this

Act to conduct live race meetings;

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

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

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

(16)~~(8)~~ "Security" means the protection of information that would provide an unfair advantage to any individual or other entity involved or seeking involvement in the operation of the lottery or the supply of major lottery-specific procurement items to the corporation, and the protection of:

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

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

~~(17)~~~~(9)~~ "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons, or animals, except horses, that is viewed by the public;~~and~~

(18) "Supplier" means a person engaged in the business of selling, leasing, or otherwise furnishing video lottery terminals or video lottery games and electronic computer components of such devices, random number generators and components of such devices, and other video lottery terminal and video lottery game supplies and equipment. The term shall not include manufacturers;

~~(19)~~~~(10)~~ "Vendor" means any person who has entered into a major lottery-specific procurement contract with the corporation.

(20) "Video lottery games" means any game approved by the corporation to be played on video lottery terminals under this chapter in which the player may receive free games, coins, tokens, credits, or other indicators of value that may be redeemed for cash, including but not limited to progressive games; and

(21) "Video lottery terminals" means any electronic, computerized, or mechanical video game machine or device, single player or multi-player, authorized by the corporation that, upon the insertion of cash, vouchers, tokens, or other indicators of value, is available to play video lottery games authorized by the corporation, and which uses a video display or spinning reels or both and microprocessors in which the player may receive free games, coins, tokens, credits, or other indicators of value that may be redeemed for cash. A machine may be considered a video lottery terminal notwithstanding the use of an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

➔Section 3. KRS 154A.030 is amended to read as follows:

(1) The affairs of the corporation shall be administered by a board of directors composed of **twelve (12)**~~eight (8)~~ members. One (1) member of the board shall be the State Treasurer, **and one (1) member shall be the executive director of the**

Kentucky Horse Racing Authority, who shall serve on the board in an ex officio capacity. The other **ten (10)**~~[seven (7)]~~ members shall be appointed by the Governor, subject to the advice and consent of the Senate **with the following restrictions:**

(a) One (1) board member shall be a licensed attorney and member in good standing with the Kentucky Bar Association who shall have demonstrated expertise in the fields of business and corporate law and commercial transactions;

(b) One (1) board member shall be certified as a peace officer in the Commonwealth of Kentucky and shall have demonstrated expertise in complex criminal investigations involving theft, embezzlement, money laundering, financial fraud, or criminal syndication and organized crime;
and

(c) One (1) board member shall be a certified public accountant, licensed in Kentucky and experienced in accounting, corporate finance, and auditing.

(d) Members appointed when the Senate is not in session shall serve only until the next regular session, or special session if such matter is included in the call therefor of the General Assembly, at which time they shall be subject to confirmation by the Senate. If the Senate is not in session, the appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate. Should the Senate refuse to confirm a member then he **or she** shall forfeit his **or her** office as of the date on which the Senate refuses to confirm him **or her**. Any person not confirmed by the Senate shall not be reappointed as a member for a period of two (2) years. Members appointed by the Governor, and confirmed by the Senate, shall be residents of the Commonwealth of Kentucky and serve a term of four (4)

~~years[, except that of the initial members appointed, two (2) shall be appointed for one (1) year with the term ending on the twenty-eighth (28th) day of November, 1989; two (2) shall be appointed for two (2) years with the term ending on the twenty-eighth (28th) day of November, 1990; two (2) shall be appointed for three (3) years with the term ending on the twenty-eighth (28th) day of November, 1991; and one (1) shall be appointed for four (4) years with the term ending on the twenty-eighth (28th) day of November, 1992].~~

(e) Members, confirmed by the Senate, may serve thirty (30) days beyond the end of their respective terms if their successors have not been appointed and qualified. If the Governor fails to appoint a successor within thirty (30) days of expiration of a member's term, the board shall make the appointment.

(f) No appointed member shall serve more than two (2) consecutive four-year terms.

(g) No more than four (4) of the members appointed by the Governor shall be from the same political party.

(h) Appointed members may be removed by the Governor for neglect of duty, misfeasance, or nonfeasance in office.

(i) The board shall annually elect a chairman from among its appointed members.

(2) (a) No member of the board of directors, by himself or herself or through others, shall knowingly:

1. Use or attempt to use his or her influence in any manner which involves a substantial conflict between his or her personal or private interest and his or her duties to the corporation;
2. Use or attempt to use any means to influence the corporation in derogation of the corporation;

3. Use his *or her* official position or office to obtain financial gain for himself *or herself*, or any spouse, parent, brother, sister, or child of the director; or
 4. Use or attempt to use his *or her* official position to secure or create privileges, exemptions, advantages, or treatment for himself *or herself* or others in derogation of the interests of the corporation or of the Commonwealth.
- (b) No director shall appear before the board or the corporation in any manner other than as a director.
- (c) A director shall abstain from action on an official decision in which he *or she* has or may have a personal or private interest, and shall disclose the existence of that personal or private interest in writing to each other member of the board on the same day on which the director becomes aware that the interest exists or that an official decision may be under consideration by the board. This disclosure shall cause the decision on these matters to be made in a meeting of the members of the board who do not have the conflict from which meeting the director shall be absent and from all votes on which matters the director shall abstain.
- (d) In determining whether to abstain from action on an official decision because of a possible conflict of interest, a director shall consider the following guidelines:
1. Whether a substantial threat to his *or her* independence of judgment has been created by his *or her* personal or private interest;
 2. The effect of his *or her* participation on public confidence in the integrity of the corporation and the lottery;
 3. Whether his *or her* participation is likely to have any significant effect on the disposition of the matter;

4. The need for his or her particular contribution, such as special knowledge of the subject matter, to the effective functioning of the corporation; and
5. Whether the official decision will affect him or her in a manner differently from the public, or will affect him or her as a member of a business, profession, occupation, or group to no greater extent generally than other members of his or her business, profession, occupation, or group.

Any director may request a vote of the disinterested members of the board on whether any director shall abstain from action on an official decision.

- (e) No director, in order to further his or her own economic interests, or those of any person, shall knowingly disclose or use confidential information acquired in the course of his or her official duties.
- (f) No director shall knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of lottery funds or funds to be raised through the lottery.
- (g) No director shall knowingly accept compensation, other than that provided in this section for directors, for performance of his or her official duties.
- (h) No present or former director shall, within one (1) year following termination of his or her membership on the board, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the corporation in matters in which he or she was directly involved during his or her tenure. This provision shall not prohibit an individual from continuing in the same business, firm, occupation, or profession in which he or she was involved prior to becoming a director, provided that, for a period of one (1) year following termination of his or her

position as a director, he or she personally refrains from working on any matter in which he or she was directly involved as a director.

- (i) No director, and no spouse, child, brother, sister, or parent of that director shall have a financial interest of more than five percent (5%) of the total value of any vendor, other supplier of goods or services to the corporation, retailer, or related entity. **No director and no spouse, child, brother, sister, or parent of a director shall have any financial interest in any approved track licensed under this chapter to operate video lottery terminals or video lottery games.**

The corporation shall provide each member of the board with a list of all current vendors **and approved tracks licensed under this chapter to operate video lottery terminals or video lottery games**, which shall be updated on at least a quarterly basis.

- (3) Appointed members of the board of directors shall be entitled to five thousand dollars (\$5,000) per year as remuneration for serving on the board, except for the chairman, who shall receive seven thousand five hundred dollars (\$7,500), and all members shall be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.
- (4) The board, upon call of the chairman or the president, shall meet at least monthly for the first eighteen (18) months and bimonthly thereafter and at such other times as the chairman or the president may determine. Four (4) members of the board shall constitute a quorum. The board shall also meet upon call of three (3) or more of the voting members of the board. The board shall keep accurate and complete records of all its meetings.
- (5) The State Treasurer shall not be compensated for his service on the board.
- (6) The president of the corporation shall be appointed by the Governor subject to confirmation by the board of directors. Should the board of directors refuse to confirm the appointment of the president, then the Governor shall submit another

name. The person whose appointment was refused shall not be renamed for confirmation for a period of two (2) years. The board of directors shall meet within thirty (30) days of the date the Governor submits the name of a nominee for president of the corporation and shall, within that time frame, either approve or reject the nomination. The president of the corporation shall manage the daily affairs of the corporation and shall have such powers and duties as specified by KRS 154A.070 and by the board of directors. The president shall not be a member of the board. The president of the corporation may be removed by the board of directors.

- (7) All meetings of the board shall be open unless they may be closed under KRS 61.810 or relate to trade secrets, legally-protectable intellectual property, confidential proprietary information, the security of the corporation in the operation of the lottery, or the security of the lottery's retailers *or licensees*.

➔Section 4. KRS 154A.040 is amended to read as follows:

- (1) All records of the corporation shall be deemed open records and subject to public inspection, unless:
- (a) The record is excluded from inspection under KRS 61.870 to 61.884 under KRS 61.878;
 - (b) The record involves a trade secret or other legally-protectable intellectual property or confidential proprietary information of the corporation or of a vendor *or licensee*; or
 - (c) The disclosure of the record could impair or adversely impact the security of the corporation in the operation of the lottery or the security of lottery retailers *or licensees*.
- (2) The provisions of KRS 61.878, 61.880, and 61.884 shall apply to records of the lottery corporation with the exception that the only Circuit Court with jurisdiction

over the records of the lottery corporation is the Circuit Court in the county where the corporate headquarters of the lottery corporation is located.

➔Section 5. KRS 154A.050 is amended to read as follows:

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

- (a) Approve, disapprove, amend, or modify the budget recommended by the president for the operation of the corporation;
- (b) Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the president;
- (c) Serve as a board of appeal for any denial, revocation, or cancellation by the president of a contract with a lottery retailer;

(d) Serve as a board of appeal for any denial or revocation of a license held or applied for by a licensee or applicant for a license; and

~~(e)~~ Adopt, from time to time, administrative regulations which shall be subject to the provisions of KRS Chapter 13A, as may be necessary to carry out and implement its powers and duties, the operation of the corporation, the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or convenience of the public. The board may adopt, without recourse to the administrative regulation process unless it so desires, rules for the conduct of specific lottery games, **other than video lottery terminals or video lottery games,** including but not limited to, rules specifying:

- 1. The types of games to be conducted;
- 2. The sale price of tickets;
- 3. The number and amount of prizes;
- 4. The method and location of selecting or validating winning tickets;

5. The frequency and the means of conducting drawings which shall be open to the public;
 6. The manner of payment of prizes;
 7. The frequency of games and drawings;
 8. The manner and amount of compensation to lottery retailers, except all compensation shall be uniform **among retailers. This shall not be construed to require the rate of compensation for a retailer selling lottery tickets and on-line games to be the same as the rate applied to licensees conducting video lottery games;** and
 9. Any other matters necessary or desirable for the efficient and effective operation of the lottery or for the convenience of the public.
- (2) In all other matters, the board shall advise and make recommendations. However, the board shall:
- (a) Conduct hearings upon complaints charging violations of this chapter or of administrative regulations adopted by the corporation and shall conduct such other hearings as may be provided by administrative regulation;
 - (b) Review the performance of the corporation and:
 1. Advise the president and make recommendations to him regarding operations of the corporation; and
 2. Identify potential improvements in this chapter, the administrative regulations of the corporation, and the management of the corporation;
 - (c) Request from the corporation any information the board determines to be relevant to its duties; and
 - (d) Report to the president of the corporation, the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding its findings and recommendations.

➔Section 6. KRS 154A.060 is amended to read as follows:

- (1) The corporation shall conduct and administer lottery games, *other than video lottery terminals and video lottery games*, which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:
- (a) Sue and be sued in its corporate name;
 - (b) Adopt a corporate seal and a symbol;
 - (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;
 - (d) Appoint agents upon which process may be served;
 - (e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;
 - (f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and
 - (g) Make, execute, and effectuate any and all agreements or contracts including:
 - 1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars (\$100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars (\$400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the

provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar (\$400,000) threshold. Contracts for personal service shall be reviewed in accordance with KRS 45A.690 to 45A.725.

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

(2) The corporation shall:

- (a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;
- (b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period. **The report shall include separate financial information relating to gross terminal revenues generated by video lottery terminals and video lottery games, net terminal revenues received from the operation of video lottery terminals and video lottery games, distribution of such funds, and lottery corporation expenditures relating to the administration and oversight of video lottery terminals and video lottery games;**
- (c) Adopt by administrative regulation a system of continuous internal audits;
- (d) Maintain weekly or more frequent records of lottery transactions, including:
 - 1. The distribution of tickets to lottery retailers;[+]**
 - 2. Revenues received from retailers and other sources;[+]**
 - 3. That portion of net terminal revenues received from approved tracks from the operation of video lottery terminals and video lottery games;**
 - 4. Claims for prizes;[+]**

5. Prizes paid;~~[,]~~ and
 6. All other financial transactions of the corporation;
- (e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;
- (f) 1. Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050.
2. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment.
3. **Computer equipment, communications equipment, and other associated equipment necessary for oversight and proper functioning of video lottery terminals and video lottery games shall be stated separately from all other equipment.**
4. ~~[Further,]~~If the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

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

➔Section 7. KRS 154A.063 is amended to read as follows:

- (1) The corporation shall not utilize amateur athletics for any purpose including, but not limited to, advertising, promoting, conducting a lottery, or as a basis for a lottery.
- (2) **Except for video lottery terminals and video lottery games allowed under this chapter,** the corporation shall not approve and operate any casino or similar gambling establishment and shall not approve or operate any game played with playing cards, dice, dominos, ~~slot machines,~~ roulette wheels, or where winners are determined by the outcome of a sports contest **other than horse racing pursuant to the provisions of KRS 154A.065.**
- (3) This section shall not be construed to prohibit the corporation from advertising the lottery at, during, or in connection with a sports contest.

(4) This section shall not be construed to prohibit the corporation from approving or overseeing the operation of video lottery terminals or video lottery games at approved tracks.

➔Section 8. KRS 154A.070 is amended to read as follows:

- (1) The president, as chief executive officer of the corporation, shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the administrative regulations adopted by the board. It shall be his **or her** duty to:
 - (a) Supervise and administer the operation of the lottery games;
 - (b) Employ and direct such personnel as may be necessary to carry out the purposes of this chapter and utilize such services, personnel, or facilities of the corporation as he **or she** may deem necessary. He **or she** may employ by personal service contract pursuant to KRS 45A.690 to 45A.725 and compensate such consultants and technical assistants as may be required to carry out the provisions of this chapter. The president may, by agreement, secure information and services as he **or she** may deem necessary from any department, agency, or unit of state government, and shall compensate such department, agency, or unit of state government for its services. Such agencies, departments, or units of state government shall cooperate with the corporation and provide such information and services as may be required by the corporation to assure the integrity of the lottery and the effective operation of the lottery games;
 - (c) Contract in accordance with the administrative regulations of the corporation with persons to sell lottery tickets at retail. The president shall require a bond or bank letter of credit from lottery retailers in an amount provided by administrative regulations issued by the board;

- (d) License, in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder:
1. Persons involved in operating or supplying video lottery terminals, video lottery games, and related supplies and equipment, to include approved tracks and suppliers; and
 2. Persons engaged in occupations identified by the board as requiring a license as set forth in administrative regulations promulgated by the board.
- (e) Make available for inspection by the board or any member of the board, upon request, all books, records, files, and other information and documents of his or her office and to advise the board and recommend such administrative regulations and other matters he or she deems necessary and advisable to improve the operation and administration of the lottery;
- ~~(f)~~~~(e)~~ Enter into any contract pursuant to KRS Chapters 45 and 45A or administrative regulations promulgated by the board, and pursuant to KRS 154A.120, with any person, firm, or corporation for the promotion and any operation of the lottery, or for the performance of any of the functions as provided in this chapter;
- ~~(g)~~~~(f)~~ Attend meetings of the board or appoint a designee to attend on his or her behalf; and
- ~~(h)~~~~(g)~~ On the first day of the Regular Session of the General Assembly in 1990 and biennially thereafter, submit the proposed biennial budget of the corporation to the Appropriations and Revenue Committee of the House of Representatives for review and comment. The budget shall be submitted to the Director of the Legislative Research Commission within five (5) days of adoption by the board for distribution to the Appropriations and Revenue Committee of the House of Representatives for review.

- (2) The president, with the approval of the board, may amend or modify the budget at any time in any manner deemed necessary for the proper operation of the corporation; however, each change shall be reported in writing to the board and to the director of the Legislative Research Commission, who shall transmit a copy of the change to the Appropriations and Revenue Committee of the House of Representatives.
- (3) Following his or her confirmation, and during his or her entire term of office, the president shall reside in Kentucky.
- (4) The president, and the board, may conduct an ongoing study of the operation and administration of lotteries, including the operation of video lottery terminals and video lottery games at horse racing tracks in other states or countries, of available literature on the subject, of federal laws and regulations which may affect the operation of the lottery, and of the reaction of citizens of this state to existing or proposed features of lottery games, with a view toward implementing improvements that will tend to serve the purposes of this chapter.
- (5) The president also may:
 - (a) Require bond from corporate employees with access to corporate funds or lottery funds, in such an amount as provided in the administrative regulations of the board. The president may also require bond from other employees as he or she deems necessary; and
 - (b) For good cause, suspend, revoke, or refuse to renew any contract or license entered into in accordance with the provisions of this chapter or the administrative regulations of the board.

➔Section 9. KRS 154A.080 is amended to read as follows:

- (1) The corporation shall establish and maintain a personnel program for its employees. The corporation may procure benefit programs or group insurance plans and shall provide a retirement plan. Employees of the corporation shall serve at the pleasure

of the president who shall determine their compensation and benefits. The employees shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the president. Such personnel actions shall be exempt from the provisions of KRS Chapter 18A. The compensation of officers at the division head level and above shall be exempt from the provisions of KRS 64.640.

- (2) No officer or employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation, **or with any approved track, or supplier licensed by the corporation.**
- (3) No officer or employee of the corporation with decision-making authority shall participate in any decision involving a retailer **or licensee** with whom the officer or employee has a financial interest of five percent (5%) or more of the total value thereof.
- (4) No officer or employee of the corporation who leaves the employ of the corporation may represent any vendor, lottery retailer, **approved track, video lottery terminal supplier, licensed individual,** or related entity before the corporation for a period of two (2) years following termination of employment with the corporation.
- (5) A background investigation shall be conducted by the chief security officer of the corporation on every applicant who has reached the final selection process prior to employment by the corporation. Applicants may be fingerprinted as a condition of employment. In addition, all division directors of the corporation and employees of the corporation performing duties primarily related to security matters, prior to employment, shall be subject to a background investigation report conducted by the Department of Kentucky State Police. The Department of Kentucky State Police shall be reimbursed by the corporation for the cost of investigations conducted pursuant to this section. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral

turpitude shall be employed by the corporation. Any employee of the corporation who is or has been convicted of a felony, bookmaking, or any other form of illegal gambling or of a crime involving moral turpitude shall be terminated from employment by the corporation, except that this requirement shall not be interpreted to limit the right of the corporation to terminate the employment of any employee, at will, prior to any conviction.

➔Section 10. KRS 154A.090 is amended to read as follows:

- (1) Any retailer, vendor, **approved track, supplier, licensed individual**, or applicant for a retailer or vendor contract **or license under this chapter**, aggrieved by an action of the president of the corporation may appeal that decision to the board.
- (2) All appeals before the board shall be decided within thirty (30) days of the hearing.
- (3) Any person aggrieved by a decision of the board may appeal the decision to the Circuit Court of the county in which the corporation maintains its headquarters, except that if the person aggrieved is a lottery retailer, **an approved track**, or an applicant to become a lottery retailer **or approved track**, then the Circuit Court of the county in which said retailer **or approved track** does or applicant would operate shall have concurrent venue as to such appeal.
- (4) The Circuit Court may reverse the decision of the board only in the event the decision is found to be:
 - (a) Clearly erroneous; or
 - (b) Arbitrary and capricious;~~[or]~~
 - (c) Procured by fraud; or
 - (d) A result of misconduct by the board, or a member thereof.

➔Section 11. KRS 154A.110 is amended to read as follows:

- (1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute

shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer *or approved track*.

- (2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:
 - (a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable, except as provided in subsection (6) of this section. Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.
 - (b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.

- (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.
- (d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.
- (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty-five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty-five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

- (f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
- (3) Any unclaimed prize money resulting from the failure of a player to present a winning lottery ticket or a winning result from an on-line game within the time limits established by this section may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated by the General Assembly directly from the corporation for any public purpose. Any unclaimed prize money resulting from the failure of a player to present a winning video lottery game voucher within the time limits established by this section shall be retained by the approved track where the voucher originated and added to the pool from which future prizes are to be awarded~~For fiscal years 2000-2001 and 2001-2002, any unclaimed prize money in excess of six million dollars (\$6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710].~~
- (4) The corporation and approved tracks are~~is~~ discharged of all liability upon payment of a prize.
- (5) No ticket shall be purchased nor video lottery game played by and no prize shall be paid to any of the following persons:
- (a) Any member of the board of directors, officers, or employees of the corporation;
 - (b) Any suppliers, vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any suppliers or vendors or related entities to the vendors; or
 - (c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

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

- (a) The assignment is in writing, executed by the assignor either before or after July 12, 2006, and by its terms, subject to the laws of this Commonwealth;
- (b) The assignor provides a sworn affidavit attesting that the assignor:
 - 1. Is of sound mind, in full command of his or her faculties, and is not acting under duress;
 - 2. Has had the opportunity to receive independent legal, financial, and tax advice concerning the effects of the assignment;
 - 3. Understands that he or she will not receive the prize payments, or portions thereof, for the years assigned;
 - 4. Understands and agrees that with regard to the assigned payments, the Commonwealth, the corporation, and its respective officials and employees will have no further liability or responsibility to make the assigned payments to the assignor;

5. Has been provided with a one (1) page written disclosure statement in bold type, fourteen (14) point font or larger, setting forth:
 - a. The payments being assigned, by amounts and payment dates;
 - b. The purchase price being paid; and
 - c. The amount, if any, of any origination or closing fees that will be charged to the lottery winner; and
 6. Has disclosed the existence or nonexistence of a current spouse; and, if married, unless the court finds the assignor may make the assignment without the spouse's consent, the assignor has submitted to the court a signed and notarized statement wherein the spouse consents to the assignment.
- (7) Written notice of any petition seeking court approval of an assignment under subsection (6) of this section and of a court hearing, if any, concerning the proposed assignment shall be delivered by certified mail, return receipt requested, to the corporation's registered agent at least fifteen (15) days prior to entry of the court order or a court hearing, if any. The corporation is not a necessary or indispensable party and is not required to appear in or be named as a party to any action seeking court approval of a voluntary assignment, but may intervene as of right in any such proceeding.
- (8) A voluntary assignment under subsection (6) of this section shall not include or cover payments or portions of payments that are, at the time of entry of the court order, subject to offset or withholding due to:
- (a) A defaulted or delinquent child support obligation;
 - (b) A debt owed to a state agency; or
 - (c) Any attachments, garnishments, or executions authorized and issued pursuant to statute and served upon the process agent of the corporation as set forth in subsection (1) of this section;

unless appropriate provision is made in the court order to satisfy the obligation or obligations giving rise to the offset or withholding at the time of closing of the assignment transaction. Each court order shall provide that any delinquent child support obligation owed by the assignor as of the date of the court order and any debts owed to a state agency by the assignor as of the date of the court order shall be offset by the corporation first against remaining payments or portions thereof then due the assignor and then against payments due the assignee each year until paid in full.

- (9) A court order approving a voluntary assignment under subsection (6) of this section, together with any other order issued in connection with any one (1) prize drawn, shall not require the corporation to divide any single prize payment among more than three (3) different persons or entities.
- (10) The Commonwealth, the corporation, and their respective officials and employees shall be discharged of all further liability upon payment of a prize pursuant to court order issued under subsection (6) of this section. It shall be the responsibility of the assignor or the assignee to provide the corporation information necessary for the corporation to identify the parties to any assignment under subsection (6) of this section and to make the payments assigned.
- (11) The ~~Kentucky Lottery~~ corporation may establish a reasonable fee, not to exceed one thousand dollars (\$1,000), to defray any administrative expenses associated with processing each assignment made pursuant to subsection (6) of this section. The fee amount shall reflect the direct and indirect costs associated with processing the assignments. A court order approving an assignment under subsection (6) of this section shall direct the assignee to pay the fee to the corporation no later than ten (10) days after entry of the order.
- (12) A certified copy of a court order approving a voluntary assignment under subsection (6) of this section shall be delivered by certified mail, return receipt

requested, to the corporation's registered agent at least thirty (30) days prior to the date upon which the first assigned payment is to be paid to the assignee. Within ten (10) days of receipt of the court order, the corporation shall acknowledge in writing to both the assignor and the assignee its receipt of the court order and that the corporation shall thereafter make the prize payments in accordance with the court order.

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

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

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

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

➔Section 12. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources, *except the moneys received pursuant to Section 30 of this Act from the operation of video lottery terminals and video lottery games,* shall be deposited

into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust account established by paragraph (2) of this section.~~[fund]~~ the amount of net revenues which the corporation determines are surplus to its needs.~~[These funds shall be held in trust until 1990 at which time]~~ The General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above. Moneys received by the corporation from the operation of video lottery games shall be distributed and expended as provided in Sections 30 and 31 of this Act.

- (2) The~~[A]~~ Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account

shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

- (3) Each fiscal year, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
 - (a) To the Collaborative Center for Literacy Development: **Early Childhood Through Adulthood, established by KRS 164.0207**, one million two hundred thousand dollars (\$1,200,000); and
 - (b) To the reading diagnostic and intervention fund **established by KRS 158.792**, one million eight hundred thousand dollars (\$1,800,000).
- (4) After the allocation of three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
 - (a) **Forty-five percent (45%)** to the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877~~7~~:
 1. ~~Forty percent (40%) in fiscal year 2003-2004; and~~
 2. ~~Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter~~; and
 - (b) **Fifty-five percent (55%)** to the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164~~7~~:
 1. ~~Forty percent (40%) in fiscal year 2003-2004;~~
 2. ~~Forty-five percent (45%) in fiscal year 2004-2005; and~~

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

- (5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he or she deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by that office~~[him]~~. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.
- (6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the

following information in every general-circulation daily newspaper published in Kentucky:

- (a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund. *An explanation shall also be provided regarding transfer of amounts deposited in the video lottery trust fund and other transfers as specified in Sections 30 and 31 of this Act;*
- (b) A statement identifying the auditing firm;
- (c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and
- (d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

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

➔Section 13. KRS 154A.420 is amended to read as follows:

- (1) *(a)* All proceeds from the sale of lottery tickets received by a person in the capacity of a lottery retailer *and all proceeds from the operation of video lottery terminals and video lottery games transferred to the corporation by an approved track* shall constitute a trust fund until paid to the corporation either directly, or through the corporation's authorized collection representative, *or until allocated and distributed on behalf of the Commonwealth and the corporation as required in Sections 30 and 31 of this Act.*
- (b)* Proceeds *for lottery retailers* shall include unsold instant tickets received by a lottery retailer and cash proceeds of sale of any lottery products, net of allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers.

- (c) Proceeds for approved tracks shall include net terminal revenues as defined in Section 2 of this Act.**
- (d)** Sales proceeds, **net terminal revenues**, and unused instant tickets shall be delivered to the corporation or its authorized collection representative **or allocated and distributed on behalf of the Commonwealth and corporation as required in Sections 30 and 31 of this Act** upon demand.
- (e)** The corporation shall, by administrative regulation, require retailers **and approved tracks** to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer **or approved track** until the date they are paid over to the corporation.
- (f)** The corporation may require a retailer **or approved track** to establish a single separate electronic funds transfer account, where available, for the purpose of receiving moneys from ticket sales **or the operation of video lottery terminals and video lottery games**,^[,] making payments to the corporation, and receiving payments from the corporation.
- (g)** Lottery retailers **and approved tracks** shall be personally liable for all proceeds.
- (h)** This section shall apply to all lottery tickets generated by computer terminal, other electronic device, and any other tickets delivered to lottery retailers.
- (2) Whenever any person who receives proceeds from the sale of lottery tickets **or the provision of video lottery terminal games** in the capacity of a lottery retailer **or approved track** becomes insolvent, or dies insolvent, the proceeds due the corporation from such **approved track**, person, or his **or her** estate shall have preference over all debts or demands.

- (3) (a) A lien is hereby given to the corporation on all funds and other personal property, on all real property, and on all rights to real or personal property owned or subsequently acquired by each retailer *or approved track* in the amount of, and to secure, the retailer's *or approved track's* obligations to remit lottery proceeds to the corporation. The lien shall be in the amount of all sums due to the corporation at any time, together with all interest, penalties, fees, commissions, charges, and other expenses incurred by reason of nonpayment of the lottery proceeds to the corporation or in the process of collecting those proceeds, and shall have priority over any other obligation or liability for which the funds or real or personal property are liable. The lien shall be of equal rank with the tax liens of the state, or any city, county, or other taxing authority within the state. The lien shall arise upon the receipt of lottery proceeds by the retailer *or approved track*, whether or not the retailer *or approved track* is at that time obligated to remit all or any portion of those proceeds to the corporation, and shall be enforceable until the liability is paid or extinguished.
- (b) The lien imposed by paragraph (a) of this subsection shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the corporation's lien has been filed by the corporation with the county clerk of any county or counties in which the retailer's business or residence *or the approved track* is located, or in any county in which the retailer *or approved track* has an interest in property. The recording of the lien shall constitute notice of both the original obligation to the corporation and all subsequent obligations to the corporation of the same retailer *or approved track*. Upon request, the corporation shall disclose the specific amount of liability at any given date to any interested party legally entitled to the information.

- (c) Even though notice of a lien has been filed as provided by paragraph (b) of this subsection, and notwithstanding the provisions of KRS 382.520, the lien imposed by paragraph (a) of this subsection shall not be valid with respect to a security interest which comes into existence after the notice of lien has been filed by reason of disbursements made within forty-five (45) days after the date the lien was filed or the date the person making the disbursements had actual notice of the lien filing, whichever is earlier, if the security interest:
1. Is in property which at the time of filing is subject to the lien imposed by paragraph (a) of this subsection, and is covered by the terms of a written agreement entered into before the lien is filed; and
 2. Is protected under local law against a judgment lien arising as of the time of the lien filing, out of an unsecured obligation.
- (d) The corporation shall be afforded the same rights and remedies with respect to enforcement of any lien and collection of lottery proceeds as is afforded state, county, city, and other taxing authorities by KRS Chapter 134.

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

The corporation shall:

- (1) Ensure that video lottery terminals are placed only in that part of the approved track premises that are closed to persons under twenty-one (21) years of age. In addition to the requirements of this section, the board may promulgate administrative regulations establishing such other criteria and conditions as it determines to be appropriate for the placement of video lottery terminals;**
- (2) Ensure that payouts from video lottery terminals and video lottery games shall not be less than eighty-five percent (85%) on an average annual basis at each approved track. The payout percentage shall be determined using standard methods of probability theory; and**

(3) Provide for an annual audit of video lottery gaming operations and the calculation and disbursement of net terminal revenue.

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

The corporation shall have the powers necessary and proper to carry out and effectuate the provisions of this chapter relating to the conduct and operation of video lottery terminals and video lottery games, including the power to:

(1) Regulate the operation of video lottery terminals and games in accordance with this chapter and administrative regulations promulgated under this chapter;

(2) Establish standards for testing video lottery terminals and, if applicable, associated equipment;

(3) Examine and approve video lottery terminals and associated equipment. The corporation shall require a supplier to pay the reasonable costs of an examination by third-party testing organizations approved by the corporation;

(4) Provide technical specifications and standards for video lottery terminals and, if applicable, associated equipment;

(5) Approve video lottery games that may be played;

(6) Initiate disciplinary actions against licensees and other persons involved in video lottery games to enforce the provisions of this chapter and any administrative regulations promulgated under this chapter;

(7) Consider and decide requests for administrative review of actions recommended by the corporation's president. All requests for administrative review shall be conducted in accordance with KRS Chapter 13B;

(8) Establish accounting procedures for determining the net terminal revenue from video lottery terminals and unclaimed credits and financial reporting procedures for approved tracks conducting video lottery terminal games;

(9) Establish insurance and bonding requirements for licensees under this chapter;

- (10) Promulgate procedures by which video lottery licenses are issued, including setting appropriate application and renewal fees except as otherwise provided in this chapter;
- (11) Exercise any power granted under this chapter as may be necessary to ensure the proper functioning, honesty, and integrity in the operation of video lottery games and terminals;
- (12) (a) Issue subpoenas for the purpose of compelling the attendance of witnesses and the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities relative to the operation of video lottery games, video lottery terminals, and the manufacture, sale, and distribution of gaming supplies, devices, and equipment used in the conduct of video lottery games.
- (b) Service of any process or notice issued under this subsection shall be accomplished in the manner provided for service of process in civil actions.
- (c) The corporation may pay the actual expenses of a witness responding to a subpoena when deemed appropriate by the corporation.
- (d) The corporation shall further have the power to administer oaths and to require testimony under oath;
- (13) Investigate any suspected regulatory or criminal violation of this chapter to include the examination and audit of accounts, bank accounts, financial statements, records, books, and papers of applicants, licensees, former licensees, and their affiliates;
- (14) Establish penalties, including administrative fines, for violation of this chapter or administrative regulations promulgated thereunder; and
- (15) Establish the procedure for the revocation, suspension, restriction, or nonrenewal of licenses for violation of this chapter or administrative regulations promulgated thereunder.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

An approved track licensed by the corporation to operate video lottery terminals and video lottery games pursuant to this chapter shall not be required to report any acquisitions of real estate, improvements thereon, or any agreements or contracts to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45. 810, and shall not be subject to the provisions of subsection (2)(f) to (h) of Section 6 of this Act, KRS 154A.120, 154A.400, 154A.410, 154A.430, 154A.440, 154A.450, and 154A.600.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) In furtherance of the purposes of this chapter and the fulfillment of its responsibilities, the corporation, its agents, and employees may:

(a) Inspect and examine all premises where video lottery games are conducted or related supplies, devices, or equipment are stored, manufactured, sold, or distributed;

(b) Inspect all supplies, devices, or equipment in or on the premises where video lottery games are conducted and video lottery terminals are housed or placed;

(c) Summarily seize and remove from the premises and impound any equipment, supplies, documents, or records related to the operation of video lottery games and video lottery terminals, or related to the manufacture, sale, and distribution of supplies, devices, or equipment used in the conduct of video lottery games for the purpose of examination and inspection; and

(d) Demand access to, and inspect, examine, photocopy, and audit all papers, books, and records of any applicant, licensee, or former licensee on his or her premises or elsewhere, as practicable, regarding receipts generated by

the manufacture, sale, and distribution of video lottery supplies, terminals, devices, or equipment, or by the operation of video lottery games and video lottery terminals. For purposes of this paragraph, a former licensee shall maintain records regarding its activities for a period of five (5) years from the date of surrender, expiration, nonrenewal, or any other loss of license. Active licensees shall maintain records regarding their activities for a minimum of ten (10) years.

(2) The Department of Kentucky State Police shall assist the corporation in criminal investigations as necessary. The corporation and the Department of State Police may seek assistance in such investigations from the Attorney General and from law enforcement agencies in the jurisdiction in which a license holder or other target of an investigation is located.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) No member of the corporation's board of directors shall communicate ex parte or off the record with any:

(a) Applicant for licensure, or any licensee, supplier or individual occupational license holder under this chapter;

(b) Any individual or affiliate of the applicant, licensee, supplier, or license holder;

(c) Any person who has a direct or an indirect interest in the outcome regarding a pending application for or other board decision concerning a video lottery license, a supplier's license, or an occupational license.

(2) If an ex parte communication occurs, the board member shall note the occurrence and shall place in the affected applicant's, licensee's, supplier's, or individual license holder's file a copy of the communication if it was written, or a memorandum of the substance of the communication if it was oral. The board

member receiving the ex parte communication shall notify the board's chair of the occurrence in writing.

(3) A board member receiving an ex parte communication may voluntarily recuse himself or herself from any role in deciding the matter that is the subject of the communication and shall provide written notice of recusal to the chair. Upon receipt of notice of an ex parte communication, the chair may recommend recusal of the recipient, and such recusal shall be affirmed by a majority of a quorum of the corporation's board of directors voting at a special or regular meeting. In determining whether to recommend recusal of a board member, the chair shall take into account whether or not, based on the circumstances surrounding the ex parte communication and the recipient's conduct with respect to it, the recipient's further participation in the decision-making process would diminish public confidence in the corporation's integrity and that of its processes and procedures. Initiation of ex parte communication by a board member may constitute cause for removal from the corporation's board of directors.

(4) Initiation of ex parte communication by an applicant, licensee, supplier, or individual occupational license holder or their affiliates, owners, legislative agent, or controllers for the purpose of influencing a board member's decision with respect to any matter pending concerning an application or license issued under this chapter to operate video lottery games or engage in their sale, conduct, operation, or distribution, may constitute cause for denial, revocation, suspension, or nonrenewal of a license.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) Video lottery terminals and video lottery games shall be located and operated only on or contiguous to approved horse racing track premises containing the grounds where races are run and grandstands are located, except that a licensee may

operate video lottery terminals from a temporary facility approved by the corporation that is not on or contiguous to track premises in accordance with subsections (7) and (8) of this section.

(2) Video lottery terminal facilities and video lottery games authorized by this chapter shall be owned and operated either by licensed racing associations or by subsidiary entities in which licensed racing associations hold one hundred percent (100%) ownership. In a county containing two (2) racetracks, any such subsidiary entity shall be owned by the two (2) racetracks in the same proportion as set forth in paragraph (b) of subsection (3) of this Section.

(3) In any county containing two (2) racetracks, both of which satisfy all the requirements of this chapter to be approved tracks:

(a) The two (2) racetracks shall operate a joint video lottery terminal facility;

(b) The net terminal revenue and all costs of and proceeds from the video lottery terminal facility shall be divided between the racetracks in the proportion they shall agree upon and, in the absence of such agreement, shall be divided sixty percent (60%) to the track with the larger purse account in calendar year 2008 and forty percent (40%) to the track with the smaller purse account in calendar year 2008. The two (2) racetracks shall provide written notice of their agreement to the corporation and the Kentucky Horse Racing Commission. In the absence of such an agreement, they shall notify the corporation and the commission, in writing, that they have not agreed and will apportion proceeds and costs in accordance with this paragraph;

(c) Each track's proportionate share of the net terminal revenue of the joint facility shall be deemed to be that track's net terminal revenue for purposes of the allocation and payments set forth in Section 30 of this Act; and

(d) The video lottery facility may be located at either track.

- (4) In those cities, counties, urban-county governments, charter county governments, consolidated local governments, or unified local governments that have engaged in planning operations pursuant to KRS Chapter 100, video lottery terminal facilities owned and operated by a racetrack or jointly by two (2) racetracks or subsidiaries thereof that are located at the licensed track premises and developed for the activities authorized by this chapter shall be permitted uses without further approval from the applicable planning and zoning authorities regardless of whether gaming facilities are specifically cited in the applicable zoning regulations.
- (5) No person under twenty-one (21) years of age shall be permitted access to the portion of the premises where video lottery games are played. An approved track shall limit the number of entrances to areas where video lottery games are situated to facilitate compliance with this section.
- (6) An approved track conducting video lottery games under this chapter shall:
- (a) Acquire video lottery terminals only from suppliers licensed by the corporation;
 - (b) Provide a secure location for the placement, operation, and play of video lottery terminals;
 - (c) Provide adequate and appropriate space for installing and operating video lottery terminals;
 - (d) Permit no person to tamper or interfere with the operation of any video lottery game or video lottery terminal;
 - (e) Provide adequate personnel to ensure compliance with the provisions of this chapter and to protect and secure video lottery terminals and monitor access to the area where the terminals are located. The corporation may require security personnel to be present during all hours of operation if the

- corporation determines that the approved track has a sufficient number of terminals to warrant such a precaution;
- (f) Report to the supplier and the corporation all video lottery terminal malfunctions and notify the corporation of the failure of a supplier or service technician to provide prompt service and repair of malfunctioning video lottery terminals and associated equipment;
- (g) Maintain general liability insurance coverage for all video lottery terminals in an amount determined sufficient by the corporation;
- (h) Remit to the corporation net terminal revenue in accordance with Section 30 of this Act;
- (i) Operate video lottery terminals in conformity with the provisions of this chapter and administrative regulations promulgated under this chapter;
- (j) Assist the corporation in maximizing video lottery revenues; and
- (k) Assume financial responsibility for proper and timely payment of all video lottery terminal prizes awarded to players in accordance with the administrative regulations promulgated by the corporation.
- (7) A licensee may operate video lottery terminals from a temporary facility located in the county in which the licensee's approved track is located under the following conditions:
- (a) Construction or renovation at the licensee's racetrack or other facility is incomplete as determined by the corporation; and
- (b) The licensee possesses a license issued by the Kentucky Horse Racing Authority to conduct one (1) or more horse race meetings during the period for which temporary licensure is requested, and it will hold live horse races on the racing dates awarded to it by the Kentucky Horse Racing Authority.
- (8) If a licensee described in subsection (7) of this section requests authority from the corporation to conduct gaming operations from a temporary location and

qualifies to do so, the corporation shall issue a temporary license that shall be valid for not more than twelve (12) months from the date issued. A licensee issued a temporary license under this subsection may receive one (1) renewal of the temporary license for a period of not longer than twelve (12) months after the license expires, and only under circumstances where completion of construction or renovation of the licensee's racetrack or other facility is delayed for reasons not foreseeable by the license holder.

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) An application from a track shall be submitted and reviewed as follows prior to approval by the corporation:

(a) The applicant track shall submit a completed application and all supporting documentation to the corporation in accordance with Sections 21 and 22 of this Act;

(b) The corporation shall review the application and all supporting documentation as provided in Sections 21 and 22 of this Act and shall provide written notice of preliminary approval to those applicants for which it will approve the issuance of a license, pending local approval;

(c) Upon written notice of preliminary approval, the applicant shall submit the notice of preliminary approval and its completed application and all supporting documentation to the governing body of the local government jurisdiction in which the facility is to be located. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council, or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council; or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875;

- (d) The governing body of the local government jurisdiction shall have thirty (30) calendar days from the date it receives the application to act on the application. The governing body shall be deemed to have approved the licensing of the applicant track by the corporation unless, within thirty (30) calendar days of the date on which the governing body receives a copy of the application, the governing body of the local government jurisdiction in which the facility is to be located votes, by a majority of the entire governing body, to disapprove the licensing of the applicant track by the corporation;
- (e) Within ten (10) business days of its final consideration of the application, the governing body shall transmit a certified copy of any resolution adopted by the governing body to the corporation and to the applicant, which shall become part of the application and shall be maintained by the corporation along with the application;
- (f) Upon approval by the governing body of the local government jurisdiction in which the facility is to be located, the corporation shall issue a license to the applicant track in accordance with the provisions of Sections 21 and 22 of this Act; and
- (g) If the governing body of the local government jurisdiction in which the facility is to be located rejects the application, the corporation shall not issue the license.

(2) Nothing in this section or any act of a local government jurisdiction shall have any effect on a track's ability to conduct horse racing or hold a license from the Kentucky Horse Racing Authority pursuant to KRS Chapter 230.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) Due to the licensing requirements placed upon horse racing tracks in the Commonwealth and the stringent oversight of the horse racing industry provided

by the Kentucky Horse Racing Authority, it is the intent of this chapter to limit the licensing of video lottery terminal operators to approved tracks as defined by Section 2 of this Act. Additionally, prior to operation of any video lottery terminal the approved track shall obtain the following:

(a) A statement from the Department of Revenue reciting that all state taxes owed by the applicant have been paid;

(b) A statement from the Division of Unemployment Insurance in the Department of Workforce Investment reciting that all employer contributions, interest, penalties, and service capacity upgrade fund assessments have been paid; and

(c) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.

For the purpose of this subsection, taxes, interest, and penalties are owed only if such amounts are final, due, and owing, with all administrative appeals and legal actions having been waived or exhausted.

(2) A track that holds a license to operate video lottery terminals and video lottery games shall, during each year in which it holds the license, run at least as many live races for the same primary breed as were run in calendar year 2008 unless a temporary reduction in the number of live races is otherwise agreed to by:

(a) The Kentucky Division of the Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Incorporated, or their successors, for thoroughbred racing; or

(b) The Kentucky Harness Horsemen's Association, or its successor, for standardbred racing.

(3) A track shall be deemed to have met the requirements of subsection (2) of this section if the track is prevented from running a live race or races by reason of

flood, fire, inclement weather, or natural disaster, or emergencies for other reasons beyond the control of the racetrack.

(4) On any day during a recognized race meeting on which an approved track is approved by the Kentucky Horse Racing Authority to run live races, but does not run live races, whether races are canceled by agreement referenced in subsection (2) of this section or for any other reason except as provided in Subsection (3) of this section, the approved track shall not operate video lottery terminals. This subsection shall apply to a joint video lottery terminal facility operated by two (2) racetracks located in the same county under Section 19 of this Act if any one (1) of them does not run live races on a day or days during which either is approved by the Kentucky Horse Racing Authority to conduct a race meeting. If racing days for a track are reduced by agreement under subsection (2) of this section, those racing days so reduced may be awarded by the Kentucky Horse Racing Authority to another racing association in order to ensure that there will be no net reduction of racing days in the Commonwealth.

(5) The corporation shall authorize an approved track to operate video lottery terminals and video lottery games on days and during hours requested by an approved track, with the days and hours of operation specified by the track in its license application, and these days and hours may include days during which the approved track is not conducting live racing.

(6) The corporation shall not grant a license authorized under this chapter to any track if the corporation determines that any of the track's principals:

(a) Has been convicted of a felony related to the security or integrity of the lottery in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each felony;

- (b) Has been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each conviction;
 - (c) Has been found to have violated the provisions of this chapter or any administrative regulation adopted hereunder, unless at least ten (10) years have passed since the violation;
 - (d) Is a vendor, employee, or agent of a video lottery terminal or video lottery game supplier;
 - (e) Resides in the same household as an officer of the corporation; or
 - (f) Has made a statement of material fact to the corporation, knowing such statement to be false, unless at least ten (10) years have passed since the statement was made.
- (7) All new applications for track licenses issued by the corporation shall furnish fingerprints from each principal for a national criminal records check by the corporation or its division of security and the Federal Bureau of Investigation. Investigative assistance may be provided by the Department of Kentucky State Police and the Administrative Office of the Courts. Fingerprints shall be accompanied by a signed authorization for the release of the information by the Department of Kentucky State Police and the Federal Bureau of Investigation.
- (8) Applicant tracks under this section shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, and other material requested by the corporation for the purpose of determining qualifications for a license. No license may be granted, issued, or renewed to an applicant who fails to provide information and documentation requested by the corporation. The burden of proving qualification for any license is on the applicant.

(9) All application, registration, disclosure forms, and other documents submitted to the corporation by or on behalf of a track for the purpose of determining qualification for a license shall be sworn to or affirmed before an officer qualified to administer oaths.

(10) An applicant track who knowingly fails to reveal any fact material to qualification or who knowingly submits false or misleading material information shall be ineligible for a license under this chapter.

(11) The terms of a collective bargaining agreement that apply to nonsupervisory employees, whose work is directly related to pari-mutuel terminal operations or to money room functions associated with pari-mutuel wagering, shall also apply to nonsupervisory positions directly related to the operation of video lottery terminals at an approved track or at a facility operated jointly by two (2) racetracks located in the same county if:

(a) A collective bargaining agreement is in place at the time that the approved track or tracks obtains a license to operate video lottery terminals; and

(b) The employees who are required to do so obtain occupational licenses as required under this chapter.

(12) If the conditions established under subsection (11) of this section apply, the job classifications, job duties, wage rates, and benefits of all nonsupervisory positions directly related to the operation of video lottery terminals shall be established by agreement of the parties to a collective bargaining agreement.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) (a) Any track applying to the corporation for a license to conduct video lottery games under this chapter shall apply on forms prescribed by the corporation, shall pay an application fee pursuant to paragraph (b) of this

subsection, and shall pay a license fee in accordance with subsection (2) of this section.

(b) For an initial application, the application fee shall be twenty-five thousand dollars (\$25,000).

(c) For a license renewal, the renewal fee shall be ten thousand dollars (\$10,000).

(d) Initial licenses for racetracks approved under this section shall be for a term of ten (10) years from the date of issuance.

(e) A license may be renewed for a term of five (5) years.

(f) Initial application fees and renewal fees may be used by the corporation to offset costs associated with overseeing video lottery terminals and video lottery games as approved under this chapter.

(2) Tracks applying to the corporation for a license to conduct video lottery games shall pay license fees in the amounts described in paragraphs (a) to (h) of this subsection and in accordance with the provisions of subsection (3) of this section:

(a) Turfway Park - one hundred million dollars (\$100,000,000);

(b) Keeneland/Red Mile - seventy-five million dollars (\$75,000,000);

(c) Churchill Downs - seventy-five million dollars (\$75,000,000);

(d) Kentucky Downs - fifty million dollars (\$50,000,000);

(e) Ellis Park - twenty million dollars (\$20,000,000);

(f) Bluegrass Downs - twenty million dollars (\$20,000,000);

(g) Thunder Ridge - twenty million dollars (\$20,000,000);

(h) Any track approved to conduct live racing by the Kentucky Horse Racing Authority after January 1, 2009, that meets the requirements of Section 43 of this Act and that applies to the corporation for a license to conduct video lottery games shall pay a license fee in accordance with the following:

1. The applicant track shall submit to the corporation an estimate of anticipated net terminal revenue for its initial five (5) years of operation; and
2. The corporation shall establish a license fee in an amount corresponding to the amount of the license fee paid by one (1) or more tracks described in paragraphs (a) to (g) of this subsection. The corporation shall determine the most appropriate corresponding fee based on the actual amount of the net terminal revenue reported by one (1) or more tracks, similarly situated with the applicant, most closely approximating the anticipated net terminal revenue of the applicant track. If actual, reported net terminal revenue from an approved track similarly situated with the applicant is not available for comparison with the anticipated net terminal revenue of the applicant, the corporation may exercise reasonable discretion to establish a comparable license fee in an amount not to exceed one hundred million dollars (\$100,000,000).
- (3) The corporation shall not finally issue a license to operate video lottery games until the license fee required in subsection (2) of this section is paid in full or partially, in accordance with the provisions of this subsection. A license fee may be paid in full or in two (2) installments of equal amounts, with the first installment due on the date the corporation approved the license and the remaining installment due one (1) year from the date of the issuance of the license. The corporation may deny, rescind, suspend, revoke, or not renew the license upon the approved track's failure to remit any installment.
- (4) The applicant shall identify, by name and address, each principal and each natural person or entity holding a legal or beneficial interest of five percent (5%) or greater in the approved track. When a natural person or entity acquires the

status of a principal, or acquires a legal or beneficial interest of five percent (5%) or greater in an approved track, the applicant or licensee shall supplement its application with the information required for submission under this subsection within thirty (30) days of acquiring knowledge of the new information. This requirement shall also apply if an entity or natural person ceases to hold the status of a principal or ceases to hold a legal or beneficial interest of five percent (5%) or greater.

(5) The applicant track shall also submit to the corporation a copy of the application previously submitted to the authority required for licensing as a racetrack under KRS Chapter 230.

(6) The corporation shall approve an application by a racetrack licensed under KRS Chapter 230 to conduct video lottery games if the racetrack meets the requirements of this section and Sections 19, 20, and 21 of this Act.

(7) An application by a racetrack licensed under KRS Chapter 230 may be denied, rescinded, suspended, revoked, or not renewed, if:

(a) The applicant track does not meet or ceases to meet the requirements for issuance of the license issued under KRS Chapter 230;

(b) The applicant track has committed fraud in securing the license issued under KRS Chapter 230 or has made a material misrepresentation of fact on the application for approval to operate video lottery terminals;

(c) The applicant track's or licensee's license to conduct horse racing under KRS Chapter 230 has been suspended, revoked, or denied issuance;

(d) The applicant track or licensee fails to remit net terminal revenue to the corporation in accordance with Section 30 of this Act;

(e) The applicant track or licensee has tampered with a video lottery game or video lottery terminal by any means, including the use of an electronic, electrical, or mechanical device which is designed, constructed, or

programmed specifically for use in obtaining an advantage in playing any video lottery game or at a video lottery terminal;

(f) The applicant track has engaged in an activity that is a violation of a provision of this chapter or an administrative regulation promulgated under this chapter, the nature of which would render the licensee unsuitable to continue as a licensed video lottery game provider;

(g) The applicant track, upon the date of license renewal, has not conformed to the specifications agreed to under subsection (2) of this section and any subsequent adjustments to the specifications approved by the corporation;
or

(h) The applicant tract fails to pay the required license fee in accordance with subsections (2) and (3) of this section.

(8) For the purposes of this subsection, a "change of ownership" shall have occurred if more than twenty percent (20%) of the legal or beneficial interests in the licensee is transferred, whether by direct or indirect means, including a transfer between family members. A license issued to operate video lottery games under this section shall not be transferable and shall be terminated upon any change of ownership, unless:

(a) The acquiring owner makes application for the issuance of a license and is approved at least thirty (30) days prior to the effective date of the change of ownership;

(b) The application shall be filed and processed in accordance with the provisions of this section;

(c) A license fee shall be paid by the acquiring owner. The fee shall be based upon the percentage of ownership acquired, multiplied by the license fee amount specified in subsection (2) of this section;

(d) In the event of a change of ownership resulting from death or disability, the license shall not be terminated if the successor provides notice thereof to the corporation within thirty (30) days of the event and provides the corporation with such other information as the corporation may reasonably request provided, however, that the license may be terminated by the corporation after a hearing if the corporation determines that the successor does not meet the criteria and qualifications set forth in this chapter; and

(e) This subsection shall not apply to a corporate owner of a video lottery terminal license that has its securities registered pursuant to 15 U.S.C. secs. 78a to 78kk, and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by 15 U.S.C. sec. 78m, or if the equity or securities of the corporation or entity are regularly traded on an established securities market in the United States.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) The corporation may issue a supplier's license to any person, firm, or business entity that applies for licensing as a video lottery supplier upon:

(a) The payment of a nonrefundable application fee established by the corporation in an amount not to exceed five thousand dollars (\$5,000);

(b) A determination by the corporation that the applicant is eligible for a supplier's license; and

(c) The payment of a license fee established by the corporation in administrative regulations promulgated under this chapter in an amount not to exceed five thousand dollars (\$5,000).

(2) The holder of a supplier's license shall sell or lease video lottery terminals and associated equipment within the Commonwealth only to tracks approved and licensed under the provisions of Sections 19, 20, 21, and 22 of this Act, and shall

have no financial interest in any approved track as defined in Section 2 of this Act.

- (3) Video lottery games and associated equipment for placement in the state shall not be sold or otherwise distributed unless they conform to standards established in administrative regulations promulgated by the board.
- (4) No person shall sell, lease, or otherwise furnish video lottery gaming supplies and equipment unless the person possesses a supplier's license issued under this section.
- (5) A supplier's license shall be valid for one (1) year from the date of issuance and may be renewed upon application to the corporation and the payment of a renewal fee established by the corporation in administrative regulation, if the applicant remains in good standing.
- (6) The corporation may issue a temporary supplier's license if the corporation:

 - (a) Has received a completed application with the required fees;
 - (b) Has received the fingerprint cards required to undergo a criminal background check;
 - (c) Has made a preliminary determination that the application is materially accurate; and
 - (d) Is unable to process the application within ninety (90) days after receipt due to circumstances that are not the fault of the applicant. A temporary supplier's license shall be valid for ninety (90) days and shall not be renewed.
- (7) A supplier's license issued under this section shall not be transferable and shall be terminated upon any change in ownership, unless the acquiring owner makes application for the issuance of a contract and is approved at least ninety (90) days prior to the effective date of the change in ownership. The application shall be filed and processed in accordance with the provisions of this section. For the

purposes of this subsection, a "change of ownership" shall have occurred if more than twenty percent (20%) of the legal or beneficial interests in the licensee is transferred, whether by direct or indirect means, including a transfer between family members.

(8) An application by a supplier may be denied, rescinded, suspended, revoked, or not renewed if:

(a) The supplier has made a material misrepresentation of fact on the application for approval to supply video lottery terminals;

(b) The supplier violates provisions of this section or Section 25 or 26 of this Act; or

(c) The supplier defaults on the payment of any obligation or debt due to the state.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) An application for a supplier's license shall contain, at a minimum, the following:

(a) The name, business address, and telephone number of the applicant;

(b) The location of the applicant's principal place of business and all locations at which video lottery terminals furnished for use in Kentucky are manufactured, assembled, or held prior to distribution to licensees;

(c) A description of the applicant's ownership structure and identification of those entities and natural persons holding a legal or beneficial interest of five percent (5%) or greater;

(d) A description of the applicant's organizational structure and a statement identifying the applicant's chief executive officer, chief financial officer, and any other major management personnel the corporation may require;

(e) A statement as to whether the applicant or those who hold legal or beneficial interests of five percent (5%) or greater:

1. Possess or have possessed any license or other grant of authority in Kentucky or in any other state or foreign country regarding the operation of a gaming facility; any gaming-related activity; or the manufacture, design, assembling, selling, leasing, or otherwise furnishing of video lottery terminals or other gaming supplies and equipment;
2. Have had any license or other grant of authority referenced in subparagraph 1. of this paragraph revoked, suspended, denied, or not renewed, with a description of the reasons for loss of the license or grant of authority;
3. Have been indicted for or convicted of a felony in Kentucky, any other state, a federal court, or a foreign country. Documentation detailing the charges, dates of the charges, the prosecuting authorities, disposition of the charges, and sentencing shall be provided to the commission;
4. Have been the subject of any voluntary or involuntary bankruptcy proceeding;
5. Have been involved in a formal process to adjust, defer, suspend, or resolve the payment of a debt; or
6. Have been served with a complaint or notice filed in a court or with any government body concerning state, local, or federal tax delinquency; and

(f) Any other information the corporation may require.

(2) All applicants for, or holders of, supplier's licenses shall report to the corporation any material change in information required to be submitted in an application within thirty (30) days after becoming aware of the change.

(3) The burden of proving qualification for a supplier's license shall be on the applicant.

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

(1) All persons holding a license relating to the supply, conduct, or operation of video lottery games and terminals under this chapter shall:

(a) Promptly report to the corporation any facts or circumstances related to the conduct or operation of video lottery games or terminals that constitute a violation of state or federal law;

(b) Hold the corporation and the Commonwealth of Kentucky harmless from, and defend and pay for the defense of, any and all claims which may be asserted against such person arising from the person's participation in the video lottery gaming activities authorized under this chapter;

(c) Maintain all records required by the corporation;

(d) Upon request, provide the corporation access to the records and the physical premises where video lottery terminals are operated or stored for the purpose of monitoring or inspecting the person's activities and equipment;
and

(e) Keep current in all payments and obligations to the corporation.

(2) In addition to the duties imposed under subsection (1) of this section, all licensed suppliers shall:

(a) Ensure timely delivery to approved tracks licensed under this chapter;

- (b) Maintain and provide an inventory of spare parts to ensure the timely repair and continuous operation of video lottery terminals placed and intended for placement in this state;
- (c) Keep books and records for the furnishing of video lottery terminals and associated equipment separate and distinct from other businesses the supplier operates;
- (d) Provide technical assistance and training in the service and repair of video lottery terminals and associated equipment to ensure the continuous authorized operation and play of video lottery terminals; and
- (e) Obtain certification of compliance under the provisions of the Federal Communication Commission rules for all video lottery terminals placed in this state.

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

- (1) A supplier may not sell or lease a video lottery terminal for placement at a licensed track in this Commonwealth unless that terminal type or model has been approved by the corporation.
- (2) Only licensed suppliers may apply for approval of a video lottery terminal or associated equipment.
- (3) (a) The corporation may require that two (2) working models of a video lottery terminal be transported to a location designated by the corporation for testing, examination, and analysis.

 - (b) The supplier shall pay the cost of transporting the video lottery terminals to corporation headquarters, or an alternate location designated by the corporation.
 - (c) The supplier shall pay all reasonable costs of testing, examination, and analysis of the video lottery terminals, including the replacement cost of

components of the video lottery terminal damaged or destroyed in the course of testing.

(d) The corporation may require that the supplier provide specialized equipment or testing of the terminal by a technical expert. If the corporation requires specialized or expert testing of any terminal, the supplier shall pay all costs associated with the testing.

(e) If the video lottery terminal fails the acceptance test conducted by the corporation, the supplier shall make all modifications required by the corporation.

(4) After each test has been completed, the corporation shall provide the terminal supplier with a report containing findings, conclusions, and pass/fail results. The report may contain recommendations for video lottery terminal modifications to bring the terminal into compliance with the provisions of this section. Prior to approving a particular terminal model, the corporation may require a trial period not in excess of sixty (60) days for an approved track to test the terminal. During the trial period, the supplier may not make any modifications to the terminal model unless such modifications are approved by the corporation.

(5) The video lottery terminal supplier and the approved track are jointly responsible for the assembly and installation of all video lottery terminals and associated equipment. The supplier and approved track shall not change the assembly or operational functions of a terminal licensed for placement in the Commonwealth unless a request for modification of an existing video terminal prototype has been approved by the corporation. The request shall contain:

(a) A detailed description of the type of change;

(b) The reason for the change; and

(c) A technical documentation of the change.

(6) Each video lottery terminal approved for placement at an approved track shall conform to the exact specifications of the video lottery terminal prototype tested and approved by the corporation. If any video lottery terminal or any video lottery terminal modification, which has not been approved by the corporation, is supplied by a supplier and operated by an approved track, the corporation shall seize and destroy all of that approved track's and supplier's noncomplying video lottery terminals and shall suspend the license of both the approved track and the supplier.

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) The corporation shall establish a central communication system using industry standard protocols and provide suppliers of video lottery terminals the protocol documentation data necessary to enable the respective supplier's video lottery terminals to communicate with the corporation's central communication system for transmitting auditing program information and for activating and disabling video lottery terminals.

(2) The corporation may approve video lottery terminals and, in doing so, shall take into account advancements in computer technology, competition from nearby states, and the preservation of jobs in the Kentucky pari-mutuel racing industry. In approving video lottery terminals licensed for placement in Kentucky, the corporation shall ensure that the terminals meet technical specifications set by the corporation.

(3) The rules of play for each game shall be displayed on the video lottery terminal face or screen. The corporation may reject any rules of play which are incomplete, confusing, misleading, or inconsistent with game rules approved by the corporation. For each video lottery game, there shall be a display detailing

the credits awarded for the occurrence of each possible winning combination of numbers or symbols.

- (4) Communication equipment and devices shall be installed to enable each video lottery terminal to communicate with the corporation's computer system by use of a communication protocol provided by the corporation to each licensed supplier.
- (5) All video lottery terminals shall have a security system that temporarily disables the gaming function of the terminal while the terminal is opened.
- (6) Each video lottery terminal shall at all times maintain electronic accounting regardless of whether the terminal is being supplied with electrical power.
- (7) A video lottery terminal shall not accept a credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins, currency, vouchers, tokens, or other indicators of value to be utilized by a player to play a video lottery game, or extend credit in any manner to a player so as to enable the player to play a video lottery game.
- (8) The primary responsibility for the control and regulation of any video lottery games and video lottery terminals operated pursuant to this chapter rests with the corporation.
- (9) The corporation shall, directly or through a contract with a third-party vendor, maintain a central system of monitoring lottery terminals. The central system shall be capable of monitoring the operation of each video lottery terminal operating pursuant to this chapter and, at the direction of the corporation, may immediately disable and cause not to operate any video lottery game and video lottery terminal.

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

- (1) No individual shall be employed in an occupation for which a license is required under this chapter and administrative regulations promulgated under this

chapter, unless the individual possesses an occupational license as required in this section.

(2) The corporation may issue an occupational license to an applicant upon:

(a) Payment of a nonrefundable application fee established by the corporation;

(b) A determination by the corporation that the applicant is eligible for an occupational license; and

(c) Payment of a license fee established by the corporation and promulgated in administrative regulation.

(3) An applicant for an occupational license shall:

(a) Be at least twenty-one (21) years of age; and

(b) Meet other standards for holding the occupational license as established in administrative regulations promulgated by the corporation.

(4) A person who has been convicted of any violation of this chapter, or of any crime related to theft, bribery, or gambling, or involving moral turpitude shall not be eligible to hold a video lottery game license under this chapter. The corporation shall deny licensure to any person who is convicted of any of the violations or crimes referenced in this subsection; however, the corporation may issue an occupational license to a natural person who has been convicted of any crime referenced in this subsection if at least ten (10) years has elapsed since completion of the sentence, and the corporation believes that the applicant does not pose a threat to public health or safety or the integrity of the video lottery games.

(5) An occupational license shall be valid for one (1) year from the date of issuance and may be renewed upon application to the corporation and the payment of a renewal fee established by the corporation, if the applicant remains in good standing.

(6) The corporation may suspend, revoke, restrict, or deny the renewal of a license issued under this section if:

(a) The person holding the occupational license violates any provision of this chapter or any administrative regulations promulgated under this chapter;

(b) The person holding the occupational license would have been disqualified for the cause, if known to the corporation at the time of the application; or

(c) The corporation deems other causes to be reasonable grounds for such action.

(7) The corporation may issue a temporary occupational license if the corporation:

(a) Has received a completed application with the required fees;

(b) Has submitted the fingerprint cards required to undergo a criminal background check;

(c) Has made a preliminary determination that the application is materially accurate; and

(d) Is unable to process the application within ninety (90) days after receipt due to circumstances that are not the fault of the applicant. A temporary occupational license shall be valid for ninety (90) days and shall not be renewed.

(8) The corporation shall have the authority to determine which occupations associated with the operation and conduct of video lottery terminals and video lottery games shall be required to be licensed. The corporation shall specify occupations to be licensed and associated fees and other requirements in administrative regulations promulgated in conformance with this chapter.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) The video lottery distribution trust fund is created as a separate revolving fund to be administered by the corporation. The trust fund shall consist of funds collected

from the net terminal revenue of video lottery terminals at approved tracks throughout the state as required by Section 30 of this Act and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the trust fund.

- (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year to be used for the purposes set forth in Section 31 of this Act.
- (3) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.
- (4) Trust fund moneys shall be used for and are hereby appropriated for the purposes set forth in Section 31 of this Act.

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

- (1) For the first five (5) years each approved track is in operation, twenty-five percent (25%) of each approved track's net terminal revenue shall be allocated and paid to the corporation for the benefit of the Commonwealth in accordance with Section 31 of this Act. After the first five (5) years of operation, tracks shall pay thirty-five percent (35%) of net terminal revenue to the corporation for the benefit of the Commonwealth.
- (2) The amount of net terminal revenue retained by the approved track shall be held and allocated by the approved track on behalf of the corporation and the Commonwealth as follows:
 - (a) In all years in which no approved track runs quarter horse races as its primary racing breed, each approved track that conducts thoroughbred races or standardbred races as its primary breed, a sum equal to fifteen-hundredths of one percent (0.15%) of each approved track's total net terminal revenue shall be allocated and paid to the Kentucky Quarter Horse

Purse Program established by KRS 230.3771(4). If any approved track conducts quarter horse racing as its primary racing breed in any year, no payment shall be required pursuant to this paragraph;

(b) A sum equal to fourteen and one-half percent (14.5%) of each approved track's total net terminal revenue shall be allocated and distributed to the enhancement and furtherance of thoroughbred, standardbred, and quarter horse equine interests in accordance with Sections 32, 33, and 34 of this Act, less one million dollars (\$1,000,000) per year adjusted annually by the change in the nonseasonally adjusted annual average Consumer Price Index for all urban consumers (CPI-U), United States city average, all items, between the two (2) most recent calendar years available, as published by the United States Bureau of Labor Statistics which shall be paid to the Kentucky Horse Racing Authority to be applied to the payment of its ordinary and necessary operating expenses;

(c) A sum equal to one percent (1%) of each approved track's total net terminal revenue shall be allocated and paid to the Kentucky Equine Breed Authority as established by Section 37 of this Act, for the enhancement and furtherance of equine interests for horse breeds in Kentucky other than the thoroughbred or standardbred breeds in accordance with Section 35 of this Act;

(d) A sum equal to each approved track's proportionate share of the sum of four million dollars (\$4,000,000) per year adjusted annually by the change in the nonseasonally adjusted annual average Consumer Price Index for all urban consumers (CPI-U), United States city average, all items, between the two (2) most recent calendar years available, as published by the United States Bureau of Labor Statistics, shall be allocated and paid to the Kentucky Horse Racing Authority to be applied to the payment of its

ordinary and necessary operating expenses, with the amount paid by each approved track as its proportionate share determined in direct proportion to their respective number of live racing days per year. For purposes of this paragraph, a video lottery facility jointly operated by two (2) tracks shall be treated as one approved track; and

(e) The balance of each approved track's net terminal revenue shall be retained by the approved track, to be allocated and distributed or used as provided in Section 36 of this Act.

(3) Each approved track shall remit the portion of net terminal revenue specified in subsection (1) of this section, and any interest earned thereon, to be allocated to the corporation pursuant to subsection (1) of this section at least weekly through electronic funds transfer sweeps conducted in accordance with administrative regulations promulgated by the corporation. Approved tracks shall furnish to the corporation all protocol documentation, electronic funds transfer data, and other information and bank authorizations required to facilitate the timely transfer of funds to the corporation. Approved tracks shall provide the corporation thirty (30) days' advance notice of any proposed account changes to ensure the uninterrupted electronic transfer of funds.

(4) The corporation shall deposit all net terminal revenue received from approved tracks on behalf of the Commonwealth in the video lottery distribution trust fund established by Section 29 of this Act.

(5) All moneys held in the video lottery distribution trust fund shall be invested by the corporation in accordance with the corporation's investment practices, and all earnings from the investments shall accrue to the benefit of the video lottery distribution trust fund and the Commonwealth.

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

The net terminal revenue to be allocated and paid pursuant to Section 30(1) of this Act shall be allocated and paid by the corporation for the benefit of the Commonwealth as follows:

(1) For twenty-four (24) months after the effective date of this Act, the corporation shall retain sufficient funds to recoup its reasonable and necessary operating expenses related to the administration and oversight of video lottery terminals and video lottery games. Twenty-five (25) months after the effective date of this Act and thereafter, the amount retained by the corporation shall not exceed two million dollars (\$2,000,000) per year. The corporation may appeal to the General Assembly for an increase in the amount retained, but must provide a history of operating expenses incurred and any other financial information the General Assembly may require. Operating expenses shall include only those actual costs and expenses of the corporation that are directly related to the administration of video lottery terminals and video lottery games and associated activities that are not passed on to the approved track or supplier and shall include but not be limited to:

- (a) The costs of installing and operating communication system connectivity between the approved track and the corporation's central communication system;
- (b) Interest payments on any amounts borrowed to pay for capital expenditures directly related to overseeing the operation of video lottery terminals and video lottery games; and
- (c) Employee compensation and costs resulting from any contract or contracts entered into for promotional, operational, security, or auditing and accounting services.

(2) (a) Beginning January 1, 2011, an amount shall be allocated to the general fund as an offset to the exemptions specified in Sections 57 and 58 of this Act.

(b) For the first year, twenty million dollars (\$20,000,000) shall be allocated.

(c) For each year thereafter, the amount allocated to the general fund as an offset shall be increased by the average of the monthly CPI-U figures as determined by the United States Bureau of Labor Statistics for the preceding twelve (12) months.

(3) (a) Beginning January 1, 2011, an amount shall be allocated to the general fund as an offset to the exemptions specified in Section 59 of this Act.

(b) For the first year, eighteen million dollars (\$18,000,000) shall be allocated.

(c) For each year thereafter, the amount allocated to the general fund as an offset shall be increased by the average of the monthly CPI-U figures as determined by the United States Bureau of Labor Statistics for the preceding twelve (12) months.

(4) The remainder of the funds to be allocated and paid pursuant to Section 30(1) of this Act shall be paid to the general fund.

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Pursuant to Section 30(2)(b) of this Act, each approved track that conducts thoroughbred racing shall pay fourteen and one-half percent (14.5%) of the net terminal revenue assigned to each track on behalf of the corporation and the Commonwealth as follows:

(1) Eighty-one and thirty-three hundredths of percent (81.33%) of the designated funds shall be distributed for the increase of purses and purse supplements for thoroughbred races as follows:

- (a) A percentage of the funds as determined by the Kentucky Horse Racing Authority after the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee established pursuant to KRS 230.400, of not less than ten percent (10%) but not more than forty percent (40%), shall be distributed as Kentucky thoroughbred development fund purse supplements at race meetings conducted by the approved track;
- (b) A percentage of the funds as determined by the Kentucky Horse Racing Authority after the assistance of the Kentucky Thoroughbred Development Fund Advisory Committee established pursuant to KRS 230.400, of not less than ten percent (10%) but not more than twenty percent (20%) shall be paid as Kentucky thoroughbred claiming fund purse supplements at race meetings conducted by an approved track; and
- (c) The remaining funds shall be allocated to and used as purse money paid at race meetings conducted by the approved track.
- (2) Eighteen percent (18%) of the designated funds shall be paid by the approved track to the Kentucky thoroughbred breeders incentive fund established by KRS 230.800; and
- (3) Sixty-seven hundredths of one percent (0.67%) shall be paid by the approved track as follows:
- (a) Fifty percent (50%) to the Kentucky Division of the Horsemen's Benevolent and Protective Association or its successor; and
- (b) Fifty percent (50%) to the Kentucky Thoroughbred Owners and Breeders Association or its successor.

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Pursuant to Section 30(2)(b) of this Act, each approved track that conducts standardbred racing shall pay fourteen and one-half percent (14.5%) of the approved

track's net terminal revenue on behalf of the corporation and the Commonwealth as follows:

(1) Seventeen and one-half percent (17.5%) to the Kentucky Standardbred Breeders Incentive Fund established by KRS 230.802;

(2) Two and one-half percent (2.5%) to a subaccount of the purse fund of the approved track to be used to supplement standardbred races designated for horse racing at county fair programs in Kentucky;

(3) Sixty-seven hundredths of one percent (0.67%) to the Kentucky Harness Horsemen's Association or its successor; and

(4) (a) The approved track shall place the remaining funds in the approved track's purse fund to be used exclusively to supplement purse money paid at race meetings conducted by the approved track.

(b) However, unless otherwise provided in an agreement, if the funds to be applied to purses exceed an average of one hundred thousand dollars (\$100,000) per day of live racing, then the approved track shall, subject to the approval and agreement of the Kentucky Harness Horsemen's Association:

1. Apply to the Kentucky Horse Racing Authority for additional live racing dates for the following year;

2. Assign a portion of these funds to another approved track that was licensed by the Kentucky Horse Racing Authority to conduct standardbred racing prior to January 1, 2009, to support the purse fund of that approved track;

3. Increase the funds to supplement purse money above one hundred thousand dollars (\$100,000) per day; or

4. Any combination of subparagraphs 1. to 3. in this paragraph.

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) Pursuant to Section 30(2)(b) of this Act, if an approved track conducts quarter horse racing as its primary racing breed, that approved track shall pay fourteen and one-half percent (14.5%) of the approved track's net terminal revenue on behalf of the corporation and the Commonwealth as follows:

(a) Seventeen and one-half percent (17.5%) to the Kentucky Quarter Horse Purse Program established by KRS 230.3771(4); and

(b) Sixty-seven hundredths of one percent (0.67%) to the Kentucky Quarter Horse Racing Association, Inc. or its successor.

(2) The approved track shall place the remaining funds in the approved track's purse fund to be used exclusively to supplement purse money paid at race meetings conducted by the approved track.

(3) Unless otherwise provided in an agreement, if the funds to be applied to purses exceed an average of one hundred thousand dollars (\$100,000) per day of live racing, then, subject to the approval and agreement of the Kentucky Quarter Horse Racing Association, Inc. the approved track shall do one or more of the following:

(a) Apply to the Kentucky Horse Racing Authority for additional live racing dates for the following year;

(b) Assign a portion of these funds to another approved track that was licensed by the Kentucky Horse Racing Authority to conduct quarter horse racing prior to January 1, 2009, to support the purse fund of that approved track;
or

(c) Increase the funds to supplement purse money above one hundred thousand dollars (\$100,000) per day.

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Pursuant to Section 30(2)(c) of this Act, funds allocated and paid on behalf of the corporation and the Commonwealth by approved tracks to the Kentucky Equine Breed Authority, as established in Section 37 of this Act, shall be used and distributed as follows:

(1) For equine programs and projects related to equine education, capital construction, and improvement of equine facilities, maintenance of existing and new equine facilities, development and maintenance of trails and trail facilities, health and welfare of horses, economic development relating to the equine industry, and for costs and expenses related to the administration of the Breed Authority. Funds used for costs and expenses related to the administration of the Breed Authority shall not exceed six percent (6%) of the funds allocated pursuant to this subsection in any fiscal year; and

(2) For the support of programs related to specific breeds of horses in Kentucky as follows:

(a) Funds allocated and distributed pursuant to this subsection shall be distributed by the Breed Authority to recognized horse breed associations of registered horses in Kentucky to support the promotion and development of those breeds in Kentucky;

(b) The distribution of funds to horse breed associations pursuant to this subsection shall be made by the Breed Authority on a pro rata basis based on the number of registered horses of each breed located in Kentucky. The Breed Authority shall have final authority for certifying the number of registered horses of each breed in Kentucky for the purposes of the division and allocation of funds pursuant to this subsection;

(c) Funds distributed to horse associations pursuant to this subsection may be used for the following purposes:

1. Racing enhancement for breeds that race;
2. Show and performance enhancements for breeds that show or perform;
3. Equine education and promotions;
4. Furtherance of recreational riding;
5. Breeder development; and
6. Program administration; and

(d) Funds distributed to horse associations pursuant to this subsection shall only be distributed by the Breed Authority through an application and approval process to be established by the Breed Authority by administrative regulation.

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Pursuant to Section 30(2)(e) of this Act, funds allocated and paid on behalf of the corporation and the Commonwealth by approved tracks shall be used and distributed as follows:

(1) An amount equal to one-half of one percent (0.5%) of the funds allocated back to approved tracks shall be spent by the approved track for capital improvements to its backside racing facilities under the following conditions:

(a) Unless waived by the horsemen's group or groups representing the primary racing breed at the racetrack in question, each approved track shall provide, within a reasonable distance of the racetrack, at least as many stalls as the approved track maintained at its backside racing facilities as of January 1, 2009;

(b) On or before February 1 of each year, the approved track shall provide a written statement to the Kentucky Horse Racing Authority, certified by an officer of the approved track, providing an accounting of the funds expended under this section. The authority may promulgate administrative regulations concerning the expenditure of those funds, including any carryover to future periods, and may take into account any failure to comply with this subsection in any licensing determination made by the authority; and

(c) As used in this subsection, "capital improvements" means any addition, replacement, or remodeling of a structural unit of the backside of the racetrack, including but not limited to the construction of barns used for the racetrack backstretch facilities for horsemen, paddock facilities, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the backside of the track; and

(2) All funds described in this section that are not allocated or distributed as provided in subsection (1) of this section shall be applied first to the operating expenses incurred by the approved track, including but not limited to costs of payroll, equipment purchase or lease, supplies, advertising, promotions and marketing, training of employees, uniforms, utilities, insurance, depreciation, and other reasonable expenses of video lottery terminals and video lottery games, and second to any other of the approved track's lawful expenditures, distributions, or uses.

➔SECTION 37. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Equine Breed Authority is created as an independent agency of state government to promote and improve horse breeds other than the

thoroughbred and standardbred breeds and to improve and coordinate activities related to those breeds.

(2) The Kentucky Equine Breed Authority shall be attached to the Environmental and Public Protection Cabinet for administrative purposes.

(3) The Kentucky Equine Breed Authority shall consist of the following members:

(a) The secretary of the Environmental and Public Protection Cabinet, or the secretary's designee;

(b) The secretary of the Commerce Cabinet, or the secretary's designee;

(c) The secretary of the Economic Development Cabinet, or the secretary's designee;

(d) A member representing the quarter horse breed;

(e) A member representing the Tennessee walking horse breed;

(f) A member representing the painted horse and Appaloosa breeds;

(g) A member representing the saddlebred horse breed;

(h) A member representing other breeds of horses found in Kentucky, including Rocky Mountain, miniature, Arabian, Anglo-Arabian, and Half-Arabian, paso fino, and any other breed recognized by the Kentucky Equine Breed Authority; and

(i) A member representing the Kentucky Equine Education Project, or its successor.

(4) The members of the Kentucky Equine Breed Authority shall be appointed by the Governor from a list of three (3) nominees submitted by the designated group or groups to be represented by that member.

(5) For initial appointments to the Kentucky Equine Breed Authority by the Governor, two (2) shall be appointed for a term of three (3) years, two (2) shall be appointed for a term of two (2) years, and two (2) shall be appointed for a term of one (1) year, at the Governor's discretion. Thereafter, members appointed by the

Governor shall be appointed for a term of three (3) years, or until their successors are appointed and duly qualified. Members appointed or selected to fill an unexpired vacancy shall be appointed or selected for the remainder of the unexpired term.

(6) The members of the Kentucky Equine Breed Authority shall elect one (1) member to serve as its chairperson. The chairperson shall serve at the pleasure of the authority. The members of the authority shall also elect a second member to serve as vice chair who will have authority to act as chairperson in the absence of the chairperson.

(7) Members of the Kentucky Equine Breed Authority shall receive fifty dollars (\$50) per day for each meeting attended and shall be reimbursed for all actual and reasonable expenses paid or incurred in the discharge of the authority's official business.

(8) Before entering upon the discharge of their duties, all members of the Kentucky Equine Breed Authority shall take an oath of office to uphold the law and fulfill their duties under this section.

(9) The Kentucky Equine Breed Authority shall establish and maintain a general office for the transaction of its business and may establish a branch office or offices. The authority may hold meetings at any of the authority's offices or at any other place at its discretion, based upon the convenience of its members, staff, those it regulates, or the general public.

(10) A majority of the members of the Kentucky Equine Breed Authority shall constitute a quorum for the transaction of the authority's business or exercise of any of its powers.

(11) The Kentucky Equine Breed Authority shall be responsible for and shall implement a process for the distribution and use of funds allocated and paid to it

pursuant to Section 35 of this Act, consistent with the provisions of Section 38 of this Act.

(12) The Kentucky Equine Breed Authority may issue revenue bonds under KRS 58.010 to 58.140 to defray, in whole or in part, the cost of acquiring lands, constructing improvements and facilities, and equipping improvements and facilities.

(13) The Kentucky Equine Breed Authority shall promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions and purposes of this chapter.

➔SECTION 38. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

Funds distributed to the Kentucky Equine Breed Authority under Section 35 of this Act shall be allocated and expended by the authority as follows:

(1) Sixty percent (60%) of the funds shall be used by the Kentucky Equine Breed Authority for equine programs and projects related to equine education, capital construction and improvement of equine facilities, maintenance of existing and new equine facilities, economic development relating to the equine industry, and for costs and expenses related to the administration of the Kentucky Equine Breed Authority. Funds used for costs and expenses related to the administration of the Kentucky Equine Breed Authority shall not exceed six percent (6%) of the funds allocated pursuant to this subsection in any fiscal year; and

(2) Forty percent (40%) of the funds shall be used by the Kentucky Equine Breed Authority for the support of programs related to specific breeds of horses in Kentucky as follows:

(a) Funds allocated and distributed pursuant to this subsection shall be distributed by the Kentucky Equine Breed Authority to recognized horse

breed associations of registered horses in Kentucky to support the promotion and development of those breeds in Kentucky;

(b) The distribution of funds to horse breed associations pursuant to this subsection shall be made by the Kentucky Equine Breed Authority on a pro rata basis based on the number of registered horses of each breed located in Kentucky. The Kentucky Equine Breed Authority shall have final authority for certifying the number of registered horses of each breed in Kentucky for the purposes of the division and allocation of funds pursuant to this subsection;

(c) Funds distributed to horse associations pursuant to this subsection may be used by the associations for the following purposes:

1. Racing enhancement for breeds that race;
2. Show and performance enhancements for breeds that show or perform;
3. Equine education and promotions;
4. Furtherance of recreational riding;
5. Breeder development; and
6. Program administration; and

(d) Funds distributed to horse associations pursuant to this subsection shall only be distributed by the Kentucky Equine Breed Authority through an application and approval process to be established by the Kentucky Equine Breed Authority by administrative regulation.

➔SECTION 39. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

The operation of any video lottery games and video lottery terminals, other than those authorized by the corporation at approved tracks, shall be deemed gambling and shall be subject to the applicable penalties imposed in KRS Chapter 528.

➔SECTION 40. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "cheat" means to alter the selection of criteria that determines:

(a) The result of a video lottery game; or

(b) The amount or frequency of payment in a video lottery game.

(2) A person is guilty of a Class D felony if the person knowingly or intentionally:

(a) Uses or possesses with the intent to use a device to assist in:

1. Projecting the outcome of a video lottery game;

2. Keeping track of video displays of playing cards;

3. Analyzing the probability of the occurrence of an event relating to a video lottery game; or

4. Analyzing the strategy for playing or betting to be used in the video lottery game, except as permitted by the corporation;

(b) Cheats at a video lottery game;

(c) Manufactures, sells, or distributes any cards, chips, dice, game, or devices intended to be used to violate this section;

(d) Alters or misrepresents the outcome of a video lottery game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players;

(e) Places a bet on the outcome of a video lottery game after acquiring knowledge that:

1. Is not available to all players; and

2. Concerns the outcome of the video lottery game that is the subject of the bet;

(f) Aids a person in acquiring the knowledge described in paragraph (e) of this subsection for the purpose of placing a bet contingent on the outcome of a video lottery game;

(g) Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a video lottery game by cheating;

(h) Uses or possesses counterfeit chips or tokens used in a video lottery game;

(i) Possesses a key or device designed for:

1. Opening, entering, or affecting the operation of a video lottery game, drop box, or an electronic or a mechanical device connected with a video lottery game; or

2. Removing coins, tokens, chips, or other contents of a video lottery game; or

(j) Possesses materials used to manufacture a slug or device intended to be used in a manner that violates this section.

(3) Paragraph (i) of subsection (2) of this section shall not apply to a licensee under this chapter or his or her employee acting in the course of the employee's employment.

➔Section 41. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

- (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
- (4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.
- (5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.
- (6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(1)(n)(~~m~~) and 132.220.

- (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.
- (8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.
- (9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

➔Section 42. KRS 230.210 is amended to read as follows:

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

- (1) "Association" means any person licensed by the Kentucky Horse Racing Authority under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;
- (2) "Authority" means the Kentucky Horse Racing Authority;
- (3) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;
- (4) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

- (5) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;
- (6) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Horse Racing Authority, and may include thoroughbred, harness, and quarter horse racing;
- (7) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;
- (8) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;
- (9) "Track" means any association duly licensed by the Kentucky Horse Racing Authority to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon authority approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area. **Notwithstanding any other provisions of this chapter to the contrary, the number of tracks licensed by the Kentucky Horse Racing Authority to conduct horse racing shall not exceed nine (9);**
- (10) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;
- (11) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;
- (12) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

- (13) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;
- (14) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;
- (15) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;
- (16) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;
- (17) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:
- (a) The chairman and all members of the board of directors of a corporation;
 - (b) All partners of a partnership and all participating members of a limited liability company;
 - (c) All trustees and trust beneficiaries of an association;

- (d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
 - (e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and
 - (f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;
- (18) "Kentucky Quarter Horse Purse Program" means a purse program established to receive funds from the authority for purse programs established in KRS 230.3771(4) to supplement purses for quarter horse races. The purse program shall be administered by the Kentucky Quarter Horse Racing Association;
- (19) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the authority, and may place a pari-mutuel wager through that account that is permitted by law;
- (20) "Advance deposit account wagering licensee" means a person or entity licensed by the authority to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts; and
- (21) "Secondary pari-mutuel organization" or "SPMO" means an advance deposit account wagering licensee, a hub as defined in KRS 230.775, or any entity other than a licensed association or simulcast facility that offers and accepts pari-mutuel wagers. "SPMO" includes any off-track wagering system or advance deposit account wagering system, regardless of whether the off-track or advance deposit account wagering system is affiliated with a licensed association.

➔Section 43. KRS 230.280 is amended to read as follows:

- (1) No person shall hold or conduct any horse race meeting for any stake, purse, or reward within the Commonwealth of Kentucky without securing the required license from the authority.
- (2) The authority shall investigate the qualifications of each applicant for a license to conduct a horse race meeting or the renewal of a license to conduct a horse race meeting. The authority may issue or renew a license unless the authority determines that:
 - (a) The track location, traffic flow, facilities for the public, and facilities for racing participants and horses do not meet state code or are otherwise inadequate to protect the public health and safety;
 - (b) The racing dates and times requested conflict with another race meeting of the same breed of horse;
 - (c) The financing or proposed financing of the entire operation is not adequate for the operation or is from an unsuitable source;
 - (d) The applicant or licensee has failed to disclose or has misstated information or otherwise attempted to mislead the authority with respect to any material fact contained in the application for the issuance or renewal of the license;
 - (e) The applicant has knowingly failed to comply with the provision of this chapter or any administrative regulations promulgated thereunder;
 - (f) Any of the principals of the applicant or licensee is determined to be unsuitable because he or she has:
 1. Been convicted of any crime of moral turpitude, embezzlement, or larceny, or any violation of any law pertaining to illegal gaming or gambling, or any crime that is inimical to the declared policy of the Commonwealth of Kentucky with regard to horse racing and pari-mutuel wagering thereon;

2. Been convicted in any jurisdiction within ten (10) years preceding initial licensing or license renewal of any crime that is or would be a felony or class A misdemeanor in the Commonwealth of Kentucky;
 3. Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or of being of notorious or unsavory reputation;
 4. Been placed and remains in the custody of any federal, state, or local law enforcement authority;
 5. Had a racing or gaming license revoked in another jurisdiction on grounds that would have been grounds for revoking the license in Kentucky; or
 6. Engaged in any other activities that would pose a threat to the public interest or to the effective regulation of horse racing and wagering in Kentucky, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of racing and wagering or in the operation of the business and financial arrangements incidental thereto; or
- (g) The applicant or licensee has had a racing or gaming license denied or revoked in another jurisdiction on grounds that would be grounds for license denial or revocation in Kentucky.

(3) All tracks licensed by the Kentucky Horse Racing Authority as of January 1, 2009, and which remain so licensed, shall be entitled to apply for and, upon satisfaction of the criteria set forth in this chapter and in KRS Chapter 154A, shall be issued a license by the Lottery Corporation to operate video lottery terminals and video lottery games. Any track licensed after January 1, 2009, shall be eligible to apply for and, upon complying with all criteria set for in this

chapter and KRS Chapter 154A, shall be entitled to received a license to operate video lottery terminals and video lottery games if the track:

(a) Conducts live racing for no fewer days per year than the average of the three (3) existing Kentucky tracks with the lowest number of racing dates per year;

(b) Runs no fewer races per year than the average of the three (3) existing Kentucky tracks with the lowest number of races run per year; and

(c) Constructs and maintains permanent facilities including grandstand, track, barns and stalls, paddock, parking, and food and beverage facilities on a scale as required by the Kentucky Horse Racing Authority.

➔Section 44. KRS 230.300 is amended to read as follows:

- (1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the authority for a license to do so. The application shall be filed at the authority's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the authority. The application shall include the following information:
 - (a) The full name and address of the person making application;
 - (b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;
 - (c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the authority;
 - (d) The proposed hours of each racing day and the number of races to be conducted;

- (e) The names and addresses of all principals associated with the applicant or licensee;
 - (f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;
 - (g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and
 - (h) Any other information that the authority by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.
- (2) An application for license shall be accompanied by the following documents:
- (a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:
 1. The net worth of the applicant;
 2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and
 3. The proposed or current financing structure for the operation and the sources of financing.
 - (b) For a license renewal applicant, an audited financial statement for the prior year;

- (c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;
 - (d) A statement from the Department of Revenue that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;
 - (e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.
- (3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.
 - (4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the authority within thirty (30) days of the change.
 - (5) The authority shall as soon as practicable, but in no event later than November 1 in any calendar year, award dates for racing in the Commonwealth during the next year. In awarding dates, the authority shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the authority may award after November 1 additional racing dates to make up for those dates canceled.
 - (6) The authority may issue a license to conduct a horse race meeting to any association making the aforesaid application if the applicant meets the requirements established in KRS 138.530 and other applicable provisions of this chapter, and if

the authority finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth; *however, the authority shall not approve the licensing of any new track to be located within a radius of sixty (60) miles of an existing licensed track, nor shall the authority authorize an existing licensed track to relocate its premises to within a radius of sixty (60) miles of another existing licensed track unless agreed to in writing by the other track.*

- (7) As a condition precedent to the issuance of a license, the authority may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.
- (8) The authority may impose a fee and shall establish, by administrative regulation promulgated in accordance with KRS Chapter 13A, a fee schedule for association license applications.
- (9) The authority may require an applicant for an association license to submit to a background check of the applicant, or of any principal, individual, or organization associated with the applicant. The authority shall not require a background check for any individual who is a principal as defined in KRS 230.210 but owns stock or financial interest in the applicant of less than ten percent (10%). An applicant shall be required to reimburse the authority for the cost of any background check conducted.
- (10) Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track that is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post

time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

- (11) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the authority may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.
- (12) Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.
- (13) The authority may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this authority.
- (14) Every horse race not licensed under this section is hereby declared to be a public nuisance and the authority may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

➔Section 45. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.
- (2) Making any false, material statements in an application for a license or supplemental license.

- (3) Violation of the provisions of KRS 243.670.
- (4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:
 - (a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;
 - (b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or
 - (c) Any felony.
- (5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Department of Revenue made in pursuance thereof.
- (6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.
- (7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold, or to the conduct of video lottery games under the provisions of KRS Chapter 154A.

- (8) Conviction of the licensee, his agents, servants, or employees for:
- (a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;
 - (b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or
 - (c) Knowingly receiving stolen property upon the licensed premises.

➔Section 46. KRS 243.505 is amended to read as follows:

The operation of a pari-mutuel system for betting, where authorized by law, *the operation of video lottery terminals and video lottery games regulated under the provisions of KRS Chapter 154A*, or the conduct of charitable gaming by a charitable organization licensed and regulated under the provision of KRS Chapter 238, shall not constitute grounds for the revocation or suspension of any license issued under KRS Chapter 243.

➔Section 47. KRS 525.090 is amended to read as follows:

- (1) A person is guilty of loitering when he:
- (a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505, *or is using video lottery terminals to engage in video lottery games regulated under KRS Chapter 154A*; or
 - (b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or
 - (c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for

being there and not having written permission from anyone authorized to grant the same; or

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

- (2) Loitering is a violation.

➔Section 48. KRS 528.010 is amended to read as follows:

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

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

someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.

- (b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238, *the sale of lottery tickets by a lottery retailer regulated under KRS Chapter 154A, or the operation of video lottery terminals and video lottery games authorized under KRS Chapter 154A.*

(4) "Gambling device" means:

- (a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or
- (b) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;
- (c) But, the following shall not be considered gambling devices within this definition:
 - 1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

3. Devices used in the conduct of charitable gaming.

4. Video lottery terminals, video lottery games, and related supplies and equipment operated in accordance with the provisions of KRS Chapter 154A.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of

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

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

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

➔Section 49. KRS 154A.990 is amended to read as follows:

- (1) (a) Any person who knowingly sells a lottery ticket to a person under eighteen (18) years of age shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.
- (b) Any lottery retailer who violates KRS 154A.450 shall be notified by the corporation in writing that the retailer shall have thirty (30) days in which to correct the violation. If at the end of that thirty (30) day period the violation is not corrected, the corporation shall remove all lottery vending machines from the retailer's premises.
- (2) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be guilty of a Class C felony.
- (3) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials, *video lottery terminals, video lottery games, or related supplies and equipment* shall be guilty of a Class B felony.
- (4) Any person who violates the provisions of KRS 154A.030(2) shall be guilty of a Class D felony and shall be removed from the board.
- (5) Any person who violates the provisions of KRS 154A.080(2) shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000) and shall be guilty of a Class D felony.
- (6) Any person who violates the provisions of KRS 154A.080(3) shall be guilty of a Class D felony.

- (7) Any person who violates the provisions of KRS 154A.080(4) shall be guilty of a Class A misdemeanor.
- (8) Any person, including any retailer or approved track and any officers, directors, principals, or employees of a corporate retailer, or an approved track, any general partner or employee of a retailer or approved track which is a partnership or joint venture, or any owner or employee of a retailer which is a sole proprietorship, who willfully violates the provisions of KRS 154A.420(1) shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) and shall be guilty of a Class D felony.
- (9) Any person who violates the provisions of KRS 154A.440(1) for the first offense shall be guilty of a violation and for each subsequent offense shall be guilty of a Class B misdemeanor.
- (10) Any person violating KRS 154A.160(2) is guilty of a Class D felony.
- (11) Any person who knowingly provides false or intentionally misleading information to the corporation in connection with a background investigation prior to employment pursuant to KRS 154A.080(5), an application for a lottery retailer certificate under KRS 154A.400, the corporation's investigation of prospective vendors pursuant to KRS 154A.600, or any investigation by the corporation's Division of Security shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), and shall be guilty of a Class D felony.
- (12) Unless the corporation shall have promulgated administrative regulations governing its procurements under KRS 154A.120(1), the provisions of KRS 45A.990(1) to 45A.990(8) shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the corporation has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

- (13) Any person who knowingly allows a person under twenty-one (21) years of age to enter an age-restricted area containing video lottery terminals shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (14) Any approved track or employee of an approved track that knowingly allows a person under twenty-one (21) years of age to operate video lottery terminals shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (15) Any approved track that places a video lottery game or video lottery terminal into play without the authorization of the corporation to do so shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (16) Any approved track that operates, carries on, or exposes for play a video lottery game or video lottery terminal after the approved track's license to operate video lottery games has expired or been suspended, prior to the actual renewal or reinstatement of the license, shall be guilty of a Class A misdemeanor.
- (17) Any approved track that possesses any video lottery terminal which the track knows has been manufactured, distributed, sold, tampered with, or serviced in violation of the provisions of this chapter or administrative regulations promulgated under this chapter shall be guilty of a Class A misdemeanor.
- (18) Any person who, with intent to defraud, knowingly presents for payment an altered or stolen lottery or video lottery ticket, coupon, token, or voucher shall be guilty of a Class C felony.

➔Section 50. KRS 68.180 is amended to read as follows:

- (1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises,

provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate not to exceed one and one-fourth percent (1.25%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county; and
 - (b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (3)
 - (a) No public service company that pays an ad valorem tax shall be required to pay a license tax.
 - (b)
 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.
 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the

multichannel video programming services or communications services or communications services.

- (c) No license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered.
- (d) No license tax shall be imposed upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training.
- (e) No license tax shall be imposed upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (f) No license tax shall be imposed upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.

(g) No license tax shall be imposed upon net terminal revenue of an approved track from the operation of video lottery games and video lottery terminals. As used in this paragraph, "approved track," "video lottery games," and "video lottery terminals" have the same meanings as in Section 2 of this Act.

- (4) The provisions and limitations of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes as to form and amount, or to the license fees authorized by KRS 160.482 to 160.488.
- (5) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of

religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

➔Section 51. KRS 68.197 is amended to read as follows:

- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
 - (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
 - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
- (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
 - (a) For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

- (b) For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (4)
- (a) Licenses imposed for regulatory purposes are not subject to limitations as to form and amount.
 - (b) No public service company that pays an ad valorem tax is required to pay a license tax.
 - (c)
 - 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to the effective date of this section.
 - 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.
 - (d) No license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined

bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license fee.

(e) No license tax shall be imposed upon net terminal revenue of an approved track from the operation of video lottery terminals and video lottery games. As used in this paragraph, "approved track," "video lottery terminal" and "video lottery game" have the same meanings as in Section 2 of this Act.

- (5) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (6) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.
- (7) The provisions of subsection (6) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.

- (8) On July 14, 2000, the provisions of subsection (7) of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.
- (9) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).
- (10) Notwithstanding any statute to the contrary:
- (a) In those counties where a license fee has been authorized by a public question approved by the voters, there shall be no credit of a city license fee against a county license fee except by agreement between the county and the city in accordance with subsection (6) of this section;
 - (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall be refunded or credited for any overpayment of a license tax paid to any county to the extent the overpayment is attributable to or derives from this section as it existed at any time subsequent to July 15, 1986, and the taxpayer seeks a credit for a license tax paid to a city located within such county, if such refund claim or amended tax return claim was filed or perfected after November 18, 2004, except by agreement between the city and county in accordance with subsection (6) of this section;
 - (c) In those counties where a license fee has been authorized by a public question approved by the voters, the percentage rate of the license fee in effect on January 1, 2005, and any maximum salary limit upon which the license fee is calculated shall remain unchanged for subsequent fiscal years. A percentage rate higher than the percentage rate in effect on January 1, 2005,

or any change in the maximum salary limit upon which a license fee is calculated shall be prohibited unless approved by the voters at a public referendum. The percentage rate of a license fee in such counties shall at no time exceed one percent (1%). Any question to be placed before the voters as a result of this paragraph shall be placed on the ballot at a regular election or nominating primary.

- (d) This subsection shall have retroactive application; and
- (e) If any provision of this subsection or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.

(11) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

➔Section 52. KRS 91.200 is amended to read as follows:

- (1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on:

- (a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages"); and
 - (b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").
- (3)
- (a) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount.
 - (b) No company that pays an ad valorem tax and a franchise tax is required to pay a license tax.
 - (c)
 - 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.
 - 2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services.
 - (d) No license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and

title business in this state, any savings and loan association whether state or federally chartered.

- (e) No license tax shall be imposed upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training.
- (f) No license tax shall be imposed on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (g) No license tax shall be imposed upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in any other case where the city is prohibited by statute from imposing a license tax.

(h) No license tax shall be imposed upon net terminal revenue of an approved track from the operation of video lottery games and video lottery terminals. As used in this paragraph, "approved track," "video lottery games," and "video lottery terminals" have the same meanings as in Section 2 of this Act.

- (4) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).
- (5) License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

- (6) Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.
- (7) The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:
 - (a) The purchase of rights of way for highways, expressways, and the widening of existing streets;
 - (b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;
 - (c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;
 - (d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;
 - (e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;
 - (f) The purchase and installation of traffic control devices and fire alarm equipment;
 - (g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;
 - (h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and
 - (i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.
- (8) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

- (9) Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.
- (10) Pursuant to this section, no city of the first class shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the city on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

➔Section 53. KRS 92.281 is amended to read as follows:

- (1) Cities of all classes are authorized to levy and collect any and all taxes provided for in Section 181 of the Constitution of the Commonwealth of Kentucky, and to use the revenue therefrom for such purposes as may be provided by the legislative body of the city.
- (2) Nothing in this section shall be construed to repeal, amend, or affect in any way the provisions of KRS 243.070.
- (3) This section shall not in any wise repeal, amend, affect, or apply to any existing statute exempting property from local taxation or fixing a special rate on proper classification or imposing a state tax which is declared to be in lieu of all local taxation, nor shall it be construed to authorize a city to require any company that pays both an ad valorem tax and a franchise tax to pay a license tax.
- (4) This section shall also be subject to the provisions of KRS 91.200 in cities of the first class having a sinking fund and commissioners of a sinking fund.
- (5) License fees on businesses, trades, occupations, or professions may not be imposed by a city of the sixth class at a percentage rate on salaries, wages, commissions, or other compensation earned by persons for work done or services performed within

said city of the sixth class nor the net profits of businesses, professions, or occupations from activities conducted in said city of the sixth class.

- (6) License fees or occupational taxes may not be imposed against or collected on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (7) License fees or occupational taxes may not be imposed against or collected on any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (8)
 - (a) It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.
 - (b) To further this intent, license fees or occupational taxes may not be imposed against any company providing multichannel video programming services or communications services as defined in KRS 136.602. If only a portion of an entity's business is providing multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services.

(9) License fees may not be imposed upon any income, profits, or receipts of an approved track from the operation of video lottery terminals and video lottery

games. As used in this subsection, "approved track," "video lottery games," and "video lottery terminals" have the same meanings as in Section 2 of this Act.

➔Section 54. KRS 92.300 is amended to read as follows:

- (1) The legislative body of any city of the second to sixth class may by ordinance exempt manufacturing establishments from city taxation for a period not exceeding five (5) years as an inducement to their location in the city. In cities of the third class, two-thirds (2/3) of the members of the city legislative body must concur for this purpose.
- (2) (a) No city of the second to sixth class or urban-county government may impose or collect any license tax upon:
 1. Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state;
 2. Any savings and loan association whether state or federally chartered; or
 3. The provision of multichannel video programming services or communications services as defined in KRS 136.602. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006. If only a portion of an entity's business is providing multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided

in support of the multichannel video programming services or communications services.

4. Any approved track, on any income, profits, or receipts from the operation of video lottery games and video lottery terminals. As used in this subparagraph, "approved track," "video lottery games," and "video lottery terminals" have the same meanings as in Section 2 of this Act.

- (b) No city of the second to sixth class or urban-county government may impose or collect any license tax upon income received:
1. By members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training; or
 2. By precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (3) Unpaid volunteer members of fire companies in cities of the fourth class shall be exempt from city poll taxes so long as they remain active members.
- (4) Pursuant to KRS 92.281, no city shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the city enacted pursuant to KRS 92.281.

➔Section 55. KRS 132.208 is amended to read as follows:

- (1)** All intangible personal property except that which is assessed under KRS 132.030 or KRS Chapter 136 shall be exempt from state and local ad valorem tax. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies.

(2) All tangible personal property owned by an approved track that is located on the premises of the approved track and used exclusively in the operation of video lottery terminals and video lottery games shall be exempt from state and local ad valorem taxes. As used in this subsection, "approved track," "video lottery game," and "video lottery terminal" shall have the same meaning as in Section 2 of this Act.

➔SECTION 56. A NEW SECTION OF KRS CHAPTER 137 IS CREATED TO READ AS FOLLOWS:

(1) Approved tracks, as defined by Section 2 of this Act, shall not pay any license, excise, special, or franchise tax imposed by any county, city, or other political subdivision on net terminal revenue generated by the play of video lottery terminals or video lottery games.

(2) No county, city, or other political subdivision may levy any license, income, excise, special, or franchise tax on net terminal revenue generated from the play of video lottery terminals or video lottery games at approved tracks.

➔Section 57. KRS 139.531 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the taxes imposed by this chapter shall apply to:

- (a) Fees paid for breeding a stallion to a mare in this state;
- (b) Sales of horses unless exempted under the provisions of subsections (2)(a) or (2)(d) of this section; and
- (c) The sales price of any horse claimed at any race meeting within this state.

(2) ~~In addition to any other exemptions provided for the horse industry in this chapter,~~
The taxes imposed under the provisions of this chapter shall not apply to the following ~~activities~~:

- (a) The sale or use of horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;

- (b) The use of a stallion for breeding purposes by an owner or shareholder of the stallion;
- (c) The trading of stallion services by an owner or shareholder of the stallion;
- (d) The sale of horses less than two (2) years of age at the time of sale, provided the sale is made to a nonresident of Kentucky. For the purposes of this section, a nonresident means a person as defined in KRS 141.010(15) who is not a resident in this state as defined by KRS 141.010(17) or who is not commercially domiciled in this state as defined in KRS 141.120(1)(b);
- (e) The boarding and training of horses within this state; and
- (f) The temporary use of horses within this state for purposes of racing, exhibiting, or performing.

(3) The taxes imposed by this chapter shall not apply to the following sales of tangible personal property if the sale is made to a person regularly engaged in the occupation of breeding, raising, training, or transporting equine as a business enterprise, and the property is used exclusively and directly in breeding, raising, training, or transporting equine as a business enterprise:

(a) Machinery, including attachments, repair parts, and replacement parts, that are designed for use on or in the operation of the machinery, are necessary to the operation of the machinery, and are customarily so used, as well as trailers used in the transportation of equine. This exemption shall not apply to automobiles, trucks, and truck-trailer combinations;

(b) Feed and feed additives for equine;

(c) Water for equine;

(d) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(e) On-farm equine facilities. This exemption shall not apply to equine barns, but shall apply;

1. To equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the other on-farm equine facilities, including fencing, waterer and feeding systems, ventilation systems, and alarm systems;
and

2. When the purchase is made:

a. Directly by the person engaged in the occupation of breeding, raising, training, racing, or exhibiting equine as a business; or

b. By a person who is under contract with the person engaged in the occupation of breeding, raising, or training equine as a business enterprise to incorporate the materials, equipment, machinery, attachments, and repair and replacement parts into the eligible on-farm facilities;

(f) Gasoline, special fuels, liquefied petroleum gas, and natural gas used to operate machinery exempted in paragraphs (a) and (e) of this subsection;
and

(g) Seed and commercial fertilizer to be applied on land, the products from which ordinarily constitute feed for equine.

➔Section 58. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

- (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
- (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;
- (4) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;
- (5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

- (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Department of Revenue;
- (b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:
1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
 2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
 3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

- (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
 - (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entirety, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- (9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telecommunications service. For purposes of this section, "residential telecommunications service" means a telecommunications service as defined in KRS 139.195 or an ancillary service as defined in KRS 139.195 provided to:
- (a) An individual for personal use at a residential address, including an individual dwelling unit such as an apartment; or
 - (b) An individual residing in an institution such as a school or nursing home if the service is paid for by an individual resident rather than the institution;
- (10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;
- (11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will

be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.010. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product;
2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
 - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be

exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured; and

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.010;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal

Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

~~(14) Gross receipts from the sale of water used in the raising of equine as a business;~~

~~(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.~~

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

~~(15)~~~~(16)~~ Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

~~(16)~~~~(17)~~ Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

~~(17)~~~~(18)~~ Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;

~~(18)~~~~(19)~~ Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

~~(19)~~~~(20)~~ The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

~~(20)~~~~(21)~~ Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:

- (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
- (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 - 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 - 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;

~~(21)~~~~(22)~~ Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and

~~(22)~~~~(23)~~ Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board.

➔Section 59. KRS 141.010 is amended to read as follows:

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

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2006, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to

that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;

- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) "Modified gross income" means the greater of:
 - (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
 - 1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
 - 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
 - (b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (9) "Gross income," in the case of taxpayers other than corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income," in the case of taxpayers other than corporations, means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to

amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
- (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
- (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

- (i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

The "applicable amount" shall be:

- a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
- b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
- c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
- d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

3. As used in this paragraph:

- a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement

- account as defined in Section 408 of the Internal Revenue Code;
and any disability pension distribution;
- b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- (j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
- b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health

insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain;
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
- (r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
- (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; ~~and~~

(t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries; and

(u) For taxable years beginning on or after January 1, 2011, exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;

(11) "Net income," in the case of taxpayers other than corporations, means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of

- the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
- (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for

expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

- (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
- (f) Include the amount calculated under KRS 141.205;
- (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
- (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
- (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
- (l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
- (m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in

this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

- (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this

chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

- (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
 - (g) Any deduction prohibited by KRS 141.205; and
 - (h) Any dividends-paid deduction of any captive real estate investment trust;
- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;

- (c) "Taxable net income," in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
- (d) "Taxable net income," in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
- (b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:
1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
 2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
 3. A foreign limited liability company as defined in KRS 275.015;
 4. A limited liability company as defined in KRS 275.015;
 5. A professional limited liability company as defined in KRS 275.015;
 6. A foreign limited partnership as defined in KRS 362.2-102(9);
 7. A limited partnership as defined in KRS 362.2-102(14);
 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);

9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

- (25) "Doing business in this state" includes but is not limited to:
- (a) Being organized under the laws of this state;
 - (b) Having a commercial domicile in this state;
 - (c) Owning or leasing property in this state;
 - (d) Having one (1) or more individuals performing services in this state;
 - (e) Maintaining an interest in a pass-through entity doing business in this state;
 - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state,

or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or

- (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;
- (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;
- (28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity; and
- (29) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:
 - (a) 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or
 - 2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission; and

- (b) 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:
 - a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or
 - b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation;

- 2. For the purposes of this paragraph:
 - a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to the provisions of KRS 141.200; and
 - b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and

- (c) The real estate investment trust is not owned by another real estate investment trust.

➔SECTION 60. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) In accordance with 15 U.S.C. sec. 1172, the General Assembly hereby declares that:

(a) 15 U.S.C. sec. 1172 shall not apply to any video lottery game, video lottery terminal, or supplies and equipment related to video lottery games or video lottery terminals found in the Commonwealth where the transportation of such device is specifically authorized by, and done in compliance with, this chapter or any other applicable Kentucky statute or administrative regulation; and

(b) Any video lottery terminal device or supplies and equipment related to video lottery terminal devices transported in compliance with any state law and administrative regulation shall be exempt from the provisions of 15 U.S.C. sec. 1172.

(2) Any shipment of video lottery terminal device or supplies and equipment related to video lottery terminal devices to an approved track located in Kentucky, the registering, recording, and labeling of which have been made by the manufacturer, supplier, or dealer in accordance with 15 U.S.C. secs. 1173 and 1174, shall be a legal shipment in the Commonwealth.

➔Section 61. KRS 154A.650 is amended to read as follows:

- (1) The Department of Kentucky State Police shall, at the request of the division of security, perform full criminal background investigations on all potential vendors and potential employees of the corporation at the level of division director and above and at any level within the division of security. The corporation shall reimburse the Department of Kentucky State Police for the actual costs of such investigations.
- (2) The corporation or its division of security shall:

- (a) Conduct criminal background investigations and credit investigations on all potential retailers and investigate all potential employees of the corporation not referred to in subsection (1) of this section;
- (b) Supervise ticket validation and lottery drawings;
- (c) Inspect at times determined solely by the division, the facilities of any vendor in order to determine the integrity of the vendor's product and in order to determine whether the vendor is in compliance with its contract;
- (d) Report any suspected violations of this chapter to the appropriate Commonwealth's attorney, or the Attorney General and law enforcement agencies;~~and~~
- (e) Upon request, provide assistance to any Commonwealth's attorney, the Attorney General or law enforcement agency investigating a violation of this chapter; and
- (f) Conduct a state and national fingerprint-supported criminal history background check by the Department of the Kentucky State Police and the Federal Bureau of Investigations on all applicants for lottery retailers, applicants for licensure as an approved track, applicants for licensure as a supplier, or persons holding a license under this chapter. The results of the state criminal history background check and the results of the national criminal history background check, if requested, shall be sent to the president. The corporation shall reimburse the Kentucky State Police and the Federal Bureau of Investigation for the actual cost of any investigative assistance provided. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.**

➔SECTION 62. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

Each person in Kentucky engaged in the operation of video lottery games and video lottery terminals as defined in Section 2 of this Act, and making a payment of gambling winnings not reduced by the wager, valued at one thousand two hundred dollars (\$1,200) or more shall deduct and withhold from the payment Kentucky income tax at the maximum tax rate provided in KRS 141.020.

➔SECTION 63. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) For tax years beginning on or after January 1, 2010, an individual taxpayer shall be entitled to a nonrefundable credit against the taxes imposed by KRS 141.020 equal to fifty percent (50%) of the Kentucky ad valorem taxes paid on the taxpayer's motor vehicles as defined by KRS 186.010(4).
- (2) The tax credit allowed in subsection (1) of this section shall be based only on the portion of ad valorem taxes levied by the state as provided by KRS 132.487.
- (3) A qualifying motor vehicle shall be registered either in the name of the taxpayer or spouse if married.
- (4) The ad valorem taxes on a motor vehicle shall qualify only if the ad valorem taxes are paid in the tax year that they are due.
- (5) The maximum tax credit allowed in any tax year shall not exceed:
 - (a) Two hundred fifty dollars (\$250) for a taxpayer filing a single return;
 - (b) Five hundred dollars (\$500) for married taxpayers filing a joint return, or married taxpayers filing separately on a combined return; and
 - (c) Two hundred fifty dollars (\$250) for a married taxpayer filing a separate return, provided that all vehicles for which the credit is claimed shall be registered in the name of the taxpayer.
- (6) A taxpayer taking the tax credit shall not be allowed the deduction as provided by KRS 141.010(10) and (11).

(7) The tax credit as provided by this section shall be taken in the year the taxes are paid and shall not be carried forward.

➔Section 64. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
- (c) The certified rehabilitation credit permitted by KRS 171.397;
- (d) The health insurance credit permitted by KRS 141.062;
- (e) The tax paid to other states credit permitted by KRS 141.070;
- (f) The credit for hiring the unemployed permitted by KRS 141.065;
- (g) The recycling or composting equipment credit permitted by KRS 141.390;
- (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (i) The coal incentive credit permitted under KRS 141.0405;
- (j) The research facilities credit permitted under KRS 141.395;
- (k) The employer GED incentive credit permitted under KRS 151B.127;
- (l) The voluntary environmental remediation credit permitted by KRS 141.418;

- (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;
 - (o) The clean coal incentive credit permitted by KRS 141.428;
 - (p) The ethanol credit permitted by KRS 141.4242;
 - (q) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (r) The energy efficiency credits permitted by KRS 141.436; and
 - (s) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;~~and~~
 - (d) The household and dependent care credit permitted by KRS 141.067; ***and***
 - (e) The motor vehicle tax credit permitted by Section 63 of this Act.***
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305; and
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and KRS 154.27-080;
 - (b) The certified rehabilitation credit permitted by KRS 171.397;
 - (c) The health insurance credit permitted by KRS 141.062;
 - (d) The unemployment credit permitted by KRS 141.065;
 - (e) The recycling or composting equipment credit permitted by KRS 141.390;
 - (f) The coal conversion credit permitted by KRS 141.041;
 - (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under KRS 151B.127;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;
 - (o) The clean coal incentive credit permitted by KRS 141.428;
 - (p) The ethanol credit permitted by KRS 141.4242;
 - (q) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (r) The energy efficiency credits permitted by KRS 141.436; and

- (s) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

➔Section 65. Sections 62, 63, and 64 of this Act take effect January 1, 2011.