

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

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

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

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

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

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

1 online poker players as a requirement to play in a game or series of games of
2 online poker;

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

9 (14) "Person" has the same meaning as in KRS 446.010;

10 (15) "Principal stockholder" means any person who, individually or together with his
11 or her immediate family members, beneficially owns or controls, directly or
12 indirectly, fifteen percent (15%) or more of the equity ownership of a registrant or
13 who, together with his or her immediate family members, has the power to vote or
14 cause the vote of fifteen percent (15%) or more of a registrant;

15 (16) "Rake" means a percentage of the total wagers placed in an online poker game
16 that the online poker provider collects as its fee for providing the platform upon
17 which the online poker game is played;

18 (17) "Registered fantasy contest operator" or "registrant" means a fantasy contest
19 operator that has been issued a valid registration by the cabinet;

20 (18) "Script" means automating a manual act using a coding language online,
21 whereby a list of multiple commands may be executed without the user's
22 interaction;

23 (19) "Secretary" means the secretary of the Public Protection Cabinet; and

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

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

- 1 (1) No fantasy contest operator shall offer a fantasy contest to residents of the
2 Commonwealth without a valid registration issued by the cabinet, except that
3 fantasy contest operators with fewer than one hundred (100) participants located
4 in the Commonwealth in a calendar year shall be exempt from this requirement.
- 5 (2) Any person seeking to be registered as a fantasy contest operator shall submit an
6 application to the cabinet on a form prescribed by the cabinet as promulgated in
7 an administrative regulation, accompanied by payment of the required fee
8 established in subsection (4) of this section.
- 9 (3) The fantasy contest operator applicant shall provide the following information to
10 the cabinet as a prerequisite for registration:
- 11 (a) The name of the applicant;
12 (b) The location of the applicant's principal place of business;
13 (c) A disclosure of ownership of the applicant including all directors, officers,
14 and principal stockholders;
15 (d) A designation of the responsible party who is the agent for the contest
16 operator for all communications with the cabinet;
17 (e) 1. The criminal record of all officers, general partners, and principal
18 stockholders of the applicant.
19 2. An applicant shall not be eligible for registration or renewal as a
20 fantasy contest operator if the applicant or any of its officers, general
21 partners, or principal stockholders has been convicted of or has
22 entered a plea of nolo contendere or guilty to a felony; and
23 (f) Any other documentation the cabinet may require.
- 24 (4) (a) The initial registration fee for a fantasy contest operator shall be five
25 thousand dollars (\$5,000).
26 (b) The annual renewal fee for a fantasy contest operator shall be an amount
27 equal to the greater of:

1 operator has been convicted of a felony in this state, a felony in another
2 state which would be a felony if committed in this state, or a felony under
3 the laws of the United States. For purposes of this paragraph, the term
4 "convicted" means having been found guilty, regardless of adjudication of
5 guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty
6 or nolo contendere; or

7 (b) Any fantasy contest operator has:

- 8 1. Violated any order of the secretary or any of the provisions set forth in
9 this chapter;
10 2. Failed to meet the requirements for registration under this chapter; or
11 3. Used fraud, misrepresentation, or deceit in applying for or attempting
12 to apply for a registration or otherwise in operating or offering to
13 operate a fantasy contest.

14 (5) If it appears to the secretary, based upon credible evidence presented in a written
15 complaint, that a person who is required to be registered is operating or offering
16 to operate a fantasy contest without being registered, the secretary may issue an
17 order to cease and desist the activity.

18 (6) The secretary shall set forth in the order:

- 19 (a) The statutes and administrative regulations alleged to have been violated;
20 (b) The facts alleged to have constituted the violation; and
21 (c) The requirement that all unauthorized practices immediately cease.

22 (7) (a) Within ten (10) days after service of the order to cease and desist, the person
23 may request a hearing on the question of whether acts or practices in
24 violation of this section have occurred. The hearing shall be conducted
25 pursuant to KRS Chapter 13B.

26 (b) The person may appeal the final order of the cabinet to the Franklin Circuit
27 Court within thirty (30) days of the hearing.

- 1 (8) To ensure that the cabinet is not spending more than what is necessary to cover
 2 administrative expenses, on June 30 of each year, the cabinet shall submit to the
 3 Legislative Research Commission and the Interim Joint Committee on Licensing,
 4 Occupations, and Administrative Regulations a written report detailing financial
 5 transactions, including:
- 6 (a) The number of applications received;
 7 (b) The number of applications approved;
 8 (c) The number of applications denied;
 9 (d) The amount of funds received from initial registration fees;
 10 (e) The amount of funds received from annual renewal fees; and
 11 (f) The amount of funds expended to enforce this chapter.
- 12 (9) KRS Chapters 230 and 528 shall not apply to fantasy contests operated in
 13 accordance with this chapter.

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

- 16 (1) (a) There is hereby established in the State Treasury a restricted account to be
 17 known as the wagering administration fund. The fund shall consist of
 18 moneys received from the moneys collected under Sections 2, 7, 16, and 20
 19 of this Act and state appropriations.
- 20 (b) 1. Amounts deposited in the fund shall be used for administrative
 21 expenses of the cabinet and shall be disbursed by the Finance and
 22 Administration Cabinet upon the warrant of the Public Protection
 23 Cabinet.
- 24 2. The remaining funds shall be deposited in the Kentucky permanent
 25 pension fund established in KRS 42.205.
- 26 3. Any interest accruing to the fund shall become a part of the fund and
 27 shall not lapse.

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

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

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

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

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

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

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

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

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

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

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

- 1 **b. The entry fee is fifty dollars (\$50) or more per entry;**
- 2 **(i) Segregate participants' funds from operational funds or maintain a reserve**
- 3 **in the form of cash, cash equivalents, payment processor reserves, payment**
- 4 **processor receivables, an irrevocable letter of credit, a bond, an escrow**
- 5 **account approved by the cabinet, or a combination thereof, in the amount of**
- 6 **the deposits in participants' accounts for benefit and protection of the funds**
- 7 **held in those accounts;**
- 8 **(j) Distinguish highly experienced participants and beginner participants and**
- 9 **ensure that highly experienced participants are conspicuously identified to**
- 10 **all participants;**
- 11 **(k) Prohibit the use of external scripts in fantasy contests that give a participant**
- 12 **an unfair advantage over other participants and make all authorized scripts**
- 13 **readily available to all fantasy contest participants;**
- 14 **(l) Clearly and conspicuously disclose all rules that govern its contests,**
- 15 **including the material terms of each promotional offer at the time the offer**
- 16 **is advertised; and**
- 17 **(m) Use technologically reasonable measures to limit each fantasy contest**
- 18 **participant to one (1) active account with that operator.**
- 19 **(2) A registrant shall not conduct, operate, or offer a fantasy contest that:**
- 20 **(a) Utilizes:**
- 21 **1. Video or mechanical reels or symbols or any other depictions of slot**
- 22 **machines, poker, blackjack, craps, or roulette; or**
- 23 **2. Any device that qualifies as or replicates contest activities that**
- 24 **constitute gaming; or**
- 25 **(b) Includes a university, college, high school, or youth athletic contest or**
- 26 **event.**
- 27 **(3) Officers and directors of registrants along with their immediate family are**

1 prohibited from competing in any fantasy contest offered by any fantasy contest
2 operator in which the operator offers a cash prize.

3 (4) (a) Any person who knowingly violates any provision of Section 2, 3, 4, 5, or 6
4 of this Act shall:

5 1. For the first offense, be liable for a civil penalty of not less than one
6 thousand dollars (\$1,000) nor more than five thousand dollars
7 (\$5,000) for each act or omission that constitutes a violation; or

8 2. For a second or subsequent offense, be liable for:

9 a. A civil penalty of not less than five thousand dollars (\$5,000)
10 and not more than twenty-five thousand dollars (\$25,000); or

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

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

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

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

19 (1) No person shall offer online poker in the Commonwealth unless that person has
20 received a license from the cabinet.

21 (2) The cabinet shall promulgate administrative regulations in accordance with KRS
22 Chapter 13A prescribing requirements for vendors offering online poker gaming
23 to the citizens of the Commonwealth. The requirements for each game or game
24 provider shall include but not be limited to:

25 (a) Geolocation software to ensure that all online poker is conducted within the
26 geographical confines of the state of Kentucky;

27 (b) Age verification to ensure that no person under the age of eighteen (18) is

- 1 allowed to place wagers through online poker games;
- 2 (c) Security standards to minimize the risk of cyber theft or hacking;
- 3 (d) Accounting standards to ensure transparency and accountability of moneys,
- 4 including:
- 5 1. Moneys deposited by players into gaming accounts;
- 6 2. Prize payouts;
- 7 3. The rake the online poker vendor receives; and
- 8 4. Any entry or associated fees charged to players; and
- 9 (e) Conformance with all applicable federal laws.
- 10 (3) A license to conduct online poker in the Commonwealth shall not be issued by the
- 11 cabinet until the proposed vendor has demonstrated to the satisfaction of the
- 12 cabinet that:
- 13 (a) All the requirements of subsection (2) of this section have been met; and
- 14 (b) An initial licensing fee of two hundred fifty thousand dollars (\$250,000) has
- 15 been paid.
- 16 (4) A license issued under subsection (3) of this section shall be valid for one (1) year
- 17 and may be renewed annually for a fee of ten thousand dollars (\$10,000).
- 18 (5) (a) In addition to the licensing fees imposed in subsections (3) and (4) of this
- 19 section, a gaming fee of six and three-quarters percent (6.75%) of net poker
- 20 revenue shall be imposed on each online poker vendor.
- 21 (b) The gaming fee shall be paid monthly by each licensed online poker vendor
- 22 to the cabinet, and may be made by electronic funds transfer.
- 23 (6) Any person who has been issued a license under this section shall have the
- 24 license suspended by the cabinet if a final judgment is issued against the person
- 25 for the improper use of Internet domain names. The license suspension shall
- 26 continue until all fines and fees assessed under the judgment are fully paid.

27 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO

1 READ AS FOLLOWS:

- 2 **(1) Online poker licensing fees and the gaming fee imposed by Section 7 of this Act**
 3 **shall be deposited in the wagering administration fund established by Section 4 of**
 4 **this Act.**
- 5 **(2) The cabinet is authorized to use money in the wagering administration fund for**
 6 **the purposes of paying necessary expenses incurred in establishing and**
 7 **overseeing the online poker system.**
- 8 **(3) Moneys in excess of the amount needed for necessary expenses shall be used for**
 9 **the purposes established in subsection (1)(b)2. of Section 4 of this Act.**
- 10 **(4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal**
 11 **year shall not lapse but shall be carried forward into the next fiscal year.**
- 12 **(5) All moneys held in the fund shall be invested by the cabinet in accordance with**
 13 **the cabinet's investment practices, and all earnings from the investments shall**
 14 **accrue to the benefit of the fund.**

15 ➔Section 9. KRS 230.210 is amended to read as follows:

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

- 17 (1) "Advance deposit account wagering" means a form of pari-mutuel wagering in
 18 which an individual may establish an account with a person or entity licensed by the
 19 racing commission, and may place a pari-mutuel wager through that account that is
 20 permitted by law;
- 21 (2) "Advance deposit account wagering licensee" means a person or entity licensed by
 22 the racing commission to conduct advance deposit account wagering and accept
 23 deposits and wagers, issue a receipt or other confirmation to the account holder
 24 evidencing such deposits and wagers, and transfer credits and debits to and from
 25 accounts;
- 26 (3) "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which
 27 each horse participating in the race is registered with the Appaloosa Horse Club of

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

- 1 (b) An individual who maintains a place of abode in this state and spends, in the
2 aggregate, more than one hundred eighty-three (183) days of the calendar year
3 in this state; or
- 4 (c) An individual who lists a Kentucky address as his or her principal place of
5 residence when applying for an account to participate in advance deposit
6 account wagering;
- 7 (13) "Licensed premises" means a track or simulcast facility licensed by the racing
8 commission under this chapter;
- 9 (14) "Paint horse" means a horse registered with the American Paint Horse Association
10 of Fort Worth, Texas;
- 11 (15) "Pari-mutuel wagering," "pari-mutuel system of wagering," or "mutuel wagering"
12 each means any method of wagering previously or hereafter approved by the racing
13 commission in which one (1) or more patrons wager on a horse race or races,
14 whether live, simulcast, or previously run. Wagers shall be placed in one (1) or
15 more wagering pools, and wagers on different races or sets of races may be pooled
16 together. Patrons may establish odds or payouts, and winning patrons share in
17 amounts wagered including any carryover amounts, plus any amounts provided by
18 an association less any deductions required, as approved by the racing commission
19 and permitted by law. Pools may be paid out incrementally over time as approved
20 by the racing commission;
- 21 (16) "Principal" means any of the following individuals associated with a partnership,
22 trust, association, limited liability company, or corporation that is licensed to
23 conduct a horse race meeting or an applicant for a license to conduct a horse race
24 meeting:
- 25 (a) The chairman and all members of the board of directors of a corporation;
- 26 (b) All partners of a partnership and all participating members of a limited
27 liability company;

- 1 (c) All trustees and trust beneficiaries of an association;
- 2 (d) The president or chief executive officer and all other officers, managers, and
3 employees who have policy-making or fiduciary responsibility within the
4 organization;
- 5 (e) All stockholders or other individuals who own, hold, or control, either directly
6 or indirectly, five percent (5%) or more of stock or financial interest in the
7 collective organization; and
- 8 (f) Any other employee, agent, guardian, personal representative, or lender or
9 holder of indebtedness who has the power to exercise a significant influence
10 over the applicant's or licensee's operation;
- 11 (17) "Quarter horse" means a horse that is registered with the American Quarter Horse
12 Association of Amarillo, Texas;
- 13 (18) "Racing commission" means the Kentucky Horse Racing Commission;
- 14 (19) "Receiving track" means a track where simulcasts are displayed for wagering
15 purposes. A track that submits an application for intertrack wagering shall meet all
16 the regulatory criteria for granting an association license of the same breed as the
17 host track, and shall have a heated and air-conditioned facility that meets all state
18 and local life safety code requirements and seats a number of patrons at least equal
19 to the average daily attendance for intertrack wagering on the requested breed in the
20 county in which the track is located during the immediately preceding calendar
21 year;
- 22 (20) "Simulcast facility" means any facility approved pursuant to the provisions of KRS
23 230.380 to simulcast live racing and conduct pari-mutuel wagering on live racing;
- 24 (21) "Simulcasting" means the telecast of live audio and visual signals of horse races for
25 the purpose of pari-mutuel wagering;
- 26 **(22) "Sports wagering" means the placing of wagers on the outcomes of professional**
27 **sports contests and other events in conformance with federal law and as**

1 authorized by the racing commission at tracks and online or by smartphone
2 through applications as authorized by this chapter and Section 10 of this Act;

3 ~~(23)~~[(22)] "Telephone account wagering" means a form of pari-mutuel wagering where
4 an individual may deposit money in an account at a track and may place a wager by
5 direct telephone call or by communication through other electronic media owned by
6 the holder of the account to the track;

7 ~~(24)~~[(23)] "Thoroughbred race" or "Thoroughbred racing" means a form of horse racing
8 in which each horse participating in the race is a Thoroughbred, (i.e., meeting the
9 requirements of and registered with The Jockey Club of New York) and is mounted
10 by a jockey; and

11 ~~(25)~~[(24)] "Track" means any association duly licensed by the Kentucky Horse Racing
12 Commission to conduct horse racing and shall include:

13 (a) For facilities in operation as of 2010, the location and physical plant described
14 in the "Commonwealth of Kentucky Initial/Renewal Application for License
15 to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering,"
16 filed for racing to be conducted in 2010;

17 (b) Real property of an association, if the association received or receives
18 approval from the racing commission after 2010 for a location at which live
19 racing is to be conducted; or

20 (c) One (1) facility or real property that is:

21 1. Owned, leased, or purchased by an association within a sixty (60) mile
22 radius of the association's racetrack but not contiguous to racetrack
23 premises, upon racing commission approval; and

24 2. Not within a sixty (60) mile radius of another licensed track premise
25 where live racing is conducted and not within a forty (40) mile radius of
26 a simulcast facility, unless any affected track or simulcast facility agrees
27 in writing to permit a noncontiguous facility within the protected

1 geographic area.

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

4 (1) The racing commission shall institute a system of sports wagering in
5 conformance with federal law, this chapter, Section 20 of this Act, and
6 administrative regulations promulgated under the authority of Section 12 of this
7 Act.

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

9 (a) A track, as defined by Section 9 of this Act, that is licensed under this
10 chapter; or

11 (b) An online or smartphone application that shall:

12 1. Only be available to individuals eighteen (18) years of age or older;

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

15 3. Include an option for advance deposit account wagering on sports
16 events.

17 (3) A licensed track may contract with no more than one (1) interactive sports
18 wagering technology and service provider at a time to provide services and
19 technology which support the track's operation of sports betting both on the track
20 and over the Internet.

21 (4) A track shall not offer sports wagering until the racing commission has issued a
22 sports wagering license to the track.

23 (5) A track licensed under Section 16 of this Act may offer sports wagering at up to
24 two (2) facilities or real properties that are:

25 (a) Owned, leased, or purchased by a track within a sixty (60) mile radius of the
26 track but not contiguous to the track, upon racing commission approval;
27 and

1 (b) Not within a sixty (60) mile radius of another licensed track or premise
2 where sports wagering is conducted, unless any affected track agrees in
3 writing to permit a noncontiguous facility within the protected geographic
4 area.

5 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
6 READ AS FOLLOWS:

7 Sporting events that may be wagered upon at the discretion of the racing commission
8 include but are not limited to:

9 (1) Professional sporting events sanctioned by nationally recognized organizations,
10 including but not limited to:

11 (a) The National Football League;

12 (b) The National Basketball Association;

13 (c) Major League Baseball;

14 (d) The Professional Golfers' Association;

15 (e) The National Association for Stock Car Auto Racing;

16 (f) Major League Soccer; and

17 (g) Other nationally or internationally recognized organizations sanctioning
18 events in professional sports such as boxing, mixed martial arts, table
19 tennis, cricket, darts, and soccer;

20 (2) College sporting events sanctioned by the National Collegiate Athletic
21 Association, the National Association of Intercollegiate Athletics, or other
22 collegiate athletic body recognized by the commission;

23 (3) International events such as the Olympics and World Cup Soccer, at the
24 discretion of the racing commission; and

25 (4) After consulting with the league or association sanctioning or authorizing the
26 sporting event, actions within a sporting event that do not represent the end result
27 of the game, but are integral to the play of the game, including but not limited to:

1 (a) The result of a putt;

2 (b) The result of an at bat; or

3 (c) The result of a field goal attempt.

4 ➔Section 12. KRS 230.215 is amended to read as follows:

5 (1) (a) It is the policy of the Commonwealth of Kentucky, in furtherance of its
6 responsibility to foster and to encourage legitimate occupations and industries
7 in the Commonwealth and to promote and to conserve the public health,
8 safety, and welfare, and it is hereby declared the intent of the Commonwealth
9 to foster and to encourage the horse breeding industry within the
10 Commonwealth and to encourage the improvement of the breeds of horses.

11 (b) Further, it is the policy and intent of the Commonwealth to foster and to
12 encourage the business of legitimate horse racing with pari-mutuel wagering
13 thereon in the Commonwealth on the highest possible plane. Further, it hereby
14 is declared the policy and intent of the Commonwealth that all racing not
15 licensed under this chapter is a public nuisance and may be enjoined as such.

16 (c) Further, it is hereby declared the policy and intent of the Commonwealth that
17 the conduct of horse racing, or the participation in any way in horse racing, or
18 the entrance to or presence where horse racing is conducted, is a privilege and
19 not a personal right; and that this privilege may be granted or denied by the
20 racing commission or its duly approved representatives acting in its behalf.

21 (d) Further, it hereby is declared the policy and intent of the Commonwealth
22 that citizens shall be allowed to enjoy wagering on sporting events in a
23 controlled environment that protects the citizens from cheating and fraud,
24 and that such wagering shall be best controlled and overseen by the
25 Kentucky Horse Racing Commission, which has demonstrated a long and
26 successful history of regulating wagering.

27 (2) (a) It is hereby declared the purpose and intent of this chapter in the interest of

1 the public health, safety, and welfare, to vest in the racing commission
2 forceful control of horse racing in the Commonwealth with plenary power to
3 promulgate administrative regulations prescribing conditions under which all
4 legitimate horse racing and wagering thereon is conducted in the
5 Commonwealth so as to encourage the improvement of the breeds of horses in
6 the Commonwealth, to regulate and maintain horse racing at horse race
7 meetings in the Commonwealth of the highest quality and free of any corrupt,
8 incompetent, dishonest, or unprincipled horse racing practices, and to regulate
9 and maintain horse racing at race meetings in the Commonwealth so as to
10 dissipate any cloud of association with the undesirable and maintain the
11 appearance as well as the fact of complete honesty and integrity of horse
12 racing in the Commonwealth.

13 **(b) In addition, it is hereby declared the purpose and intent of this chapter to**
14 **vest in the racing commission exclusive jurisdiction over sports wagering in**
15 **the Commonwealth, with the exception of fantasy contest wagering under**
16 **KRS Chapter 239, with plenary power to promulgate administrative**
17 **regulations prescribing conditions under which all legitimate sports**
18 **wagering is to be conducted.**

19 **(c)** In addition to the general powers and duties vested in the racing commission
20 by this chapter, it is the intent hereby to vest in the racing commission the
21 power to eject or exclude from association grounds or any part thereof any
22 person, licensed or unlicensed, whose conduct or reputation is such that his
23 presence on association grounds may, in the opinion of the racing
24 commission, reflect on the honesty and integrity of horse racing or interfere
25 with the orderly conduct of horse racing.

26 ➔Section 13. KRS 230.225 is amended to read as follows:

27 (1) The Kentucky Horse Racing Commission is created as an independent agency of

1 state government to regulate the conduct of horse racing and pari-mutuel wagering
2 on horse racing, sports wagering, and related activities within the Commonwealth
3 of Kentucky. The racing commission shall be attached to the Public Protection
4 Cabinet for administrative purposes.

- 5 (2) (a) The Kentucky Horse Racing Commission shall consist of fifteen (15)
6 members appointed by the Governor, with the secretaries of the Public
7 Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic
8 Development Cabinet, or their designees, serving as ex officio nonvoting
9 members.
- 10 (b) Two (2) members shall have no financial interest in the business or industry
11 regulated.
- 12 (c) The members of the racing commission shall be appointed to serve for a term
13 of four (4) years, except the initial terms shall be staggered as follows:
- 14 1. Five (5) members shall serve for a term of four (4) years;
 - 15 2. Five (5) members shall serve for a term of three (3) years; and
 - 16 3. Five (5) members shall serve for a term of two (2) years.
- 17 (d) Any member appointed to fill a vacancy occurring other than by expiration of
18 a term shall be appointed for the remainder of the unexpired term.
- 19 (e) In making appointments, the Governor may consider members broadly
20 representative of the Thoroughbred industry and members broadly
21 representative of the standardbred, quarter horse, Appaloosa, or Arabian
22 industries. The Governor may also consider recommendations from the
23 Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of
24 the Horsemen's Benevolent and Protective Association, the Kentucky Harness
25 Horsemen's Association, and other interested organizations.
- 26 (3) (a) Members of the racing commission shall receive no compensation for serving
27 on the commission, but shall be reimbursed for travel expenses for attending

- 1 meetings and performing other official functions consistent with the
2 reimbursement policy for state employees established by KRS 45.101 and
3 administrative regulations promulgated thereunder.
- 4 (b) The Governor shall appoint one (1) member of the racing commission to serve
5 as its chairperson who shall serve at the pleasure of the Governor.
- 6 (c) The Governor shall further designate a second member to serve as vice chair
7 with authority to act in the absence of the chairperson.
- 8 (d) Before entering upon the discharge of their duties, all members of the
9 Kentucky Horse Racing Commission shall take the constitutional oath of
10 office.
- 11 (4) (a) The racing commission shall establish and maintain a general office for the
12 transaction of its business and may in its discretion establish a branch office
13 or offices.
- 14 (b) The racing commission may hold meetings at any of its offices or at any other
15 place when the convenience of the racing commission requires.
- 16 (c) All meetings of the racing commission shall be open and public, and all
17 persons shall be permitted to attend meetings.
- 18 (d) A majority of the voting members of the racing commission shall constitute a
19 quorum for the transaction of its business or exercise of any of its powers.
- 20 (5) Except as otherwise provided, the racing commission shall be responsible for the
21 following:
- 22 (a) Developing and implementing programs designed to ensure the safety and
23 well-being of horses, jockeys, and drivers;
- 24 (b) Developing programs and procedures that will aggressively fulfill its
25 oversight and regulatory role on such matters as medical practices and
26 integrity issues;
- 27 (c) Recommending tax incentives and implementing incentive programs to ensure

- 1 the strength and growth of the equine industry;
- 2 (d) Designing and implementing programs that strengthen the ties between
- 3 Kentucky's horse industry and the state's universities, with the goal of
- 4 significantly increasing the economic impact of the horse industry on
- 5 Kentucky's economy, improving research for the purpose of promoting the
- 6 enhanced health and welfare of the horse, and other related industry issues;{
- 7 and}
- 8 (e) Developing and supporting programs which ensure that Kentucky remains in
- 9 the forefront of equine research;
- 10 **(f) Developing monitoring programs to ensure the highest integrity of athletic**
- 11 **events and sports wagering; and**
- 12 **(g) Developing a program to share wagering information with the leagues,**
- 13 **associations, and other governing bodies sanctioning sports events upon**
- 14 **which wagers may be accepted. The program shall be designed to assist in**
- 15 **determining potential problems or questionable wagering activity so the**
- 16 **leagues, associations, and the racing commission can monitor wagering**
- 17 **activity effectively.**

18 ➔Section 14. KRS 230.240 is amended to read as follows:

- 19 (1) **(a)** In addition to the employees referred to in KRS 230.230, the executive
- 20 director of the racing commission may employ, dismiss, or take other
- 21 personnel action and determine the reasonable compensation of stewards,
- 22 supervisors of mutuels, veterinarians, inspectors, accountants, security
- 23 officers, and other employees deemed by the executive director to be essential
- 24 at or in connection with any horse race meeting and in the best interest of
- 25 racing **or those deemed by the executive director to be integral to the**
- 26 **conduct of sports wagering.**
- 27 **(b)** Three (3) Thoroughbred stewards shall be employed at each Thoroughbred

1 race meeting as follows:

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

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

7 c. Three (3) standardbred judges shall be employed at each standardbred race
8 meeting as follows:

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

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

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

23 (e) The racing commission, for the purpose of maintaining integrity and honesty
24 in racing, shall prescribe by administrative regulation the powers and duties of
25 the persons employed under this section and qualifications necessary to
26 competently perform their duties. In addition, the racing commission shall be
27 responsible for seeing that racing officials employed under the provisions of

1 this section have adequate training to perform their duties in a competent
2 manner.

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

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

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

16 (3) (a) The expenses of the commission and the compensation of all employees
17 referred to in this section shall be paid by the licensee conducting a horse race
18 meeting or pari-mutuel wagering on live or historic horse racing.

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

22 (c) Except for the Thoroughbred steward and the standardbred judge authorized
23 in subsection (1) of this section, the employees referred to in this section shall
24 be deemed employees of the racing commission, and are paid by the licensee
25 or association.

26 (4) Each person, as a condition precedent to the privilege of receiving a license under
27 this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay

1 expenses and compensation as provided in this section and as may be actually and
2 reasonably incurred.

3 ➔Section 15. KRS 230.260 is amended to read as follows:

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

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

17 (2) The racing commission is vested with jurisdiction over any person or entity that
18 offers advance deposit account wagering to Kentucky residents **for pari-mutuel**
19 **wagering on horse racing.** Any such person or entity under the jurisdiction of the
20 racing commission shall be licensed by the racing commission, and the racing
21 commission may impose a license fee not to exceed ten thousand dollars (\$10,000)
22 annually. The racing commission shall, by administrative regulation promulgated in
23 accordance with KRS Chapter 13A, establish conditions and procedures for the
24 licensing of advance deposit account wagering providers to include but not be
25 limited to:

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

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

- 1 1. The amount wagered on Kentucky races; and
- 2 2. The total amount wagered by Kentuckians;
- 3 (3) The racing commission is vested with jurisdiction over any totalisator company that
- 4 provides totalisator services to a racing association located in the Commonwealth.
- 5 A totalisator company under the jurisdiction of the racing commission shall be
- 6 licensed by the racing commission, regardless of whether a totalisator company is
- 7 located in the Commonwealth or operates from a location or locations outside of the
- 8 Commonwealth, and the racing commission may impose a license fee on a
- 9 totalisator company. The racing commission shall, by administrative regulation
- 10 promulgated in accordance with KRS Chapter 13A, establish conditions and
- 11 procedures for the licensing of totalisator companies, and a fee schedule for
- 12 applications for licensure;
- 13 (4) The racing commission is vested with jurisdiction over any manufacturer,
- 14 wholesaler, distributor, or vendor of any equine drug, medication, therapeutic
- 15 substance, or metabolic derivative which is purchased by or delivered to a licensee
- 16 or other person participating in Kentucky horse racing by means of the Internet,
- 17 mail delivery, in-person delivery, or other means;
- 18 (5) The racing commission is vested with jurisdiction over any horse training center or
- 19 facility in the Commonwealth that records official timed workouts for publication;
- 20 (6) The racing commission may require an applicant for a license under subsections (2)
- 21 and (3) of this section to submit to a background check of the applicant, or of any
- 22 individual or organization associated with the applicant. An applicant shall be
- 23 required to reimburse the racing commission for the cost of any background check
- 24 conducted;
- 25 (7) The racing commission, its representatives and employees, may visit, investigate
- 26 and have free access to the office, track, facilities, or other places of business of any
- 27 licensee, or any person owning a horse or performing services regulated by this

- 1 chapter on a horse registered to participate in a breeders incentive fund under the
2 jurisdiction of the racing commission;
- 3 (8) The racing commission shall have full authority to prescribe necessary and
4 reasonable administrative regulations and conditions under which horse racing at a
5 horse race meeting shall be conducted in this state and to fix and regulate the
6 minimum amount of purses, stakes, or awards to be offered for the conduct of any
7 horse race meeting;
- 8 (9) Applications for licenses shall be made in the form, in the manner, and contain
9 information as the racing commission may, by administrative regulation, require.
10 Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to
11 the racing commission;
- 12 (10) The racing commission shall establish by administrative regulation minimum fees
13 for jockeys to be effective in the absence of a contract between an employing owner
14 or trainer and a jockey. The minimum fees shall be no less than those of July 1,
15 1985;
- 16 (11) The racing commission may refuse to issue or renew a license, revoke or suspend a
17 license, impose probationary conditions on a license, issue a written reprimand or
18 admonishment, impose fines or penalties, deny purse money, require the forfeiture
19 of purse money, or any combination thereof with regard to a licensee or other
20 person participating in Kentucky horse racing for violation of any federal or state
21 statute, regulation, or steward's or racing commission's directive, ruling, or order to
22 preserve the integrity of Kentucky horse racing or to protect the racing public. The
23 racing commission shall, by administrative regulation, establish the criteria for
24 taking the actions described in this subsection;
- 25 (12) The racing commission may issue subpoenas for the attendance of witnesses before
26 it and for the production of documents, records, papers, books, supplies, devices,
27 equipment, and all other instrumentalities related to pari-mutuel horse racing or

1 sports wagering within the Commonwealth. The racing commission may
2 administer oaths to witnesses and require witnesses to testify under oath whenever,
3 in the judgment of the racing commission, it is necessary to do so for the effectual
4 discharge of its duties;

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

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

13 (15) (a) The racing commission shall promulgate administrative regulations
14 establishing a self-exclusion list for individuals who self-identify as being
15 problem or compulsive gamblers.

16 (b) Each racing association shall display a notice to the public of the self-
17 exclusion list and the method or methods individuals may use to self-identify
18 at the track, online, or by phone.

19 (c) Self-exclusion information collected by each racing association shall be
20 forwarded to the racing commission, and the information from the racing
21 associations shall be compiled into a comprehensive list that shall be provided
22 to all racing associations.

23 (d) Pursuant to KRS 61.878(1)(a), information collected under this subsection
24 shall be excluded from the application of KRS 61.870 to 61.884.

25 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) No person shall conduct or offer to conduct sports wagering within the

1 Commonwealth of Kentucky without obtaining a sports wagering license from the
2 racing commission.

3 (2) As a prerequisite to obtaining a sports wagering license, a person shall be
4 licensed as an association under KRS 230.300.

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

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

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

12 ➔Section 17. KRS 230.320 is amended to read as follows:

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

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

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

1 justification of the stay; and the time period for which the stay is requested.
2 The chairperson shall convene a special meeting of the racing commission
3 within ten (10) calendar days of receipt of the petition, and the racing
4 commission shall issue a written final order granting or denying the petition
5 within two (2) calendar days of the special meeting. If the racing commission
6 fails to timely issue a final order on the petition, then the stay is granted. The
7 racing commission may rescind a stay granted under this subsection for good
8 cause.

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

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

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

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

25 ~~(6)~~⁽⁵⁾ (a) In an administrative appeal to the racing commission by a licensee or
26 other person participating in Kentucky horse racing, the racing commission
27 may determine in its final order that the appeal is frivolous. If the racing

1 commission finds that an appeal is frivolous:

- 2 1. This fact shall be considered an aggravating circumstance and may be
3 considered in assessing any penalty against the licensee; and
4 2. The licensee or other person who raised the appeal may be required to
5 reimburse the racing commission for the cost of the investigation of the
6 underlying circumstances of the case and the cost of the adjudication of
7 the appeal. Costs may include but are not limited to fees paid to a
8 hearing officer or court reporter, attorneys'~~attorneys~~ fees, and
9 laboratory expenses.

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

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

14 ➔Section 18. KRS 230.361 is amended to read as follows:

15 (1) (a) The racing commission shall promulgate administrative regulations governing
16 and regulating mutuel wagering on horse races under what is known as the pari-
17 mutuel system of wagering.

18 (b) The wagering shall be conducted only by a person licensed under this chapter
19 to conduct a race meeting and only upon the licensed premises, and provided
20 further that only pari-mutuel wagering on simulcasting shall be allowed at
21 simulcast facilities.

22 (c) The pari-mutuel system of wagering shall be operated only by a totalizator or
23 other mechanical equipment approved by the racing commission. The racing
24 commission shall not require any particular make of equipment.

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

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

4 ~~**(4)**~~~~**(3)**~~ All reported but unclaimed pari-mutuel or sports wagering winning tickets
5 held in this state by any person or association operating a pari-mutuel, sports
6 wagering, or similar system of betting conducted through a licensed association ~~7 at horse race meetings~~ shall be presumed abandoned if not claimed by the person
8 entitled to them within one (1) year from the time the ticket became payable.

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

18 ➔Section 19. KRS 230.3615 is amended to read as follows:

19 (1) The commission, including the tax levied in KRS 138.510, deducted from the gross
20 amount wagered on horse racing by the association which operates a race track
21 under the jurisdiction of the Kentucky Horse Racing Commission and conducts the
22 Thoroughbred racing at which betting is conducted through a pari-mutuel or other
23 similar system, in races where the patron is required to select one (1) horse, and the
24 breaks, which breaks shall be made and calculated to the penny, except on races
25 previously run in which the breaks shall be made and calculated to the penny or
26 retained in the pari-mutuel pools, shall not be more than seventeen and one-half
27 percent (17.5%).

- 1 (2) The commission, including the tax levied in KRS 138.510, deducted from the gross
 2 amount wagered by the person, corporation, or association which operates a race
 3 track under the jurisdiction of the Kentucky Horse Racing Commission and
 4 conducts Thoroughbred racing at which betting is conducted through a pari-mutuel
 5 or other similar system shall not exceed twenty-two percent (22%) of the gross
 6 handle in races where the patron is required to select two (2) or more horses, and
 7 the breaks, which breaks shall be made and calculated to the penny, except on races
 8 previously run in which the breaks shall be made and calculated to the penny or
 9 retained in the pari-mutuel pools.
- 10 (3) The minimum *pari-mutuel* wager to be accepted by any licensed association shall
 11 be ten cents (\$0.10). The minimum pay-off on a one dollar (\$1) *pari-mutuel* wager
 12 shall be one dollar and ten cents (\$1.10); but, in the event of a minus pool, the
 13 minimum pay-off for a one dollar (\$1) *pari-mutuel* wager shall be one dollar and
 14 five cents (\$1.05).
- 15 (4) Each association conducting Thoroughbred racing shall pay to the racing
 16 commission all moneys allocated to the *Thoroughbred* backside improvement fund
 17 in an amount equal to one-half of one percent (0.5%) of its on-track pari-mutuel
 18 wagers.

19 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) As used in this section, "adjusted gross revenue" means the total sum of bets
 22 collected by a sports wagering licensee, less winnings paid to participants in the
 23 contest.

24 (2) A tax is imposed on persons licensed to conduct sports wagering under KRS
 25 Chapter 230 at a rate of:

26 (a) Nine and three-quarters percent (9.75%) on the adjusted gross revenue on
 27 wagers placed at the licensed track; or

- 1 (b) Fourteen and one-quarter percent (14.25%) on the adjusted gross revenue
2 on wagers placed online or via smartphone or other off-site technology
3 approved by the Kentucky Horse Racing Commission;
4 and shall be appropriated to the wagering administration fund established in
5 Section 4 of this Act and appropriated for the purposes established in that section.
- 6 (3) The Department of Revenue shall enforce the provisions of and collect the taxes
7 and penalties imposed in this section, and in doing so it shall have the general
8 powers and duties granted it in KRS Chapters 131 and 135, including the power
9 to enforce, by an action in the Franklin Circuit Court, the collection of the taxes,
10 penalties, and other payments imposed or required by this section.
- 11 (4) The tax imposed by this section is due and payable to the department monthly and
12 shall be remitted on or before the twentieth day of the next succeeding calendar
13 month.
- 14 (5) (a) Payment shall be accompanied by a return form which the department shall
15 prescribe.
- 16 (b) The return form shall report, at a minimum:
- 17 1. The total handle;
18 2. Prizes paid;
19 3. Adjusted gross revenue; and
20 4. Wagering tax due.
- 21 (6) Wagering taxes due and payable in accordance with this section shall be paid via
22 electronic funds transfer. Sports wagering licensees shall provide the department
23 with all protocol documentation and electronic funds transfer data necessary to
24 facilitate the timely transfer of funds.
- 25 (7) Any person who violates any provision of this section shall be subject to the
26 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax
27 interest rate as defined in KRS 131.010(6).

1 (8) The Kentucky Horse Racing Commission may suspend, revoke, or decline to
2 renew a license upon the licensee's failure to timely submit payment of taxes due
3 under this section or the administrative regulations promulgated by the
4 department thereto.

5 →Section 21. KRS 230.362 is amended to read as follows:

6 Any person holding unclaimed pari-mutuel or sports wagering winning tickets presumed
7 abandoned under the provisions of KRS 230.361 shall file annually, on or before
8 September 1 of each year, with the office of the racing commission a list of and the
9 amounts represented by unclaimed pari-mutuel or sports wagering tickets held by such
10 person as of July 1, and other information as the racing commission may require for the
11 administration of KRS 230.361 to 230.373. The report shall be made in duplicate; the
12 original shall be retained by the racing commission and the copy shall be mailed to the
13 sheriff of the county where the unclaimed pari-mutuel or sports wagering tickets are
14 held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive
15 days a copy of the report on the courthouse door or the courthouse bulletin board, and to
16 publish the copy in the manner set forth by KRS Chapter 424. The cost of the publication
17 shall be paid by the racing commission. The sheriff shall immediately certify in writing to
18 the racing commission the dates when the list was posted and published. The list shall be
19 posted and published as required on or before October 1 of the year when it is made, and
20 such posting and publishing shall be constructive notice to all holders of pari-mutuel and
21 sports wagering tickets which have remained unclaimed for a period of one (1) year from
22 the time the ticket became payable.

23 →Section 22. KRS 230.363 is amended to read as follows:

24 Any person who has made a report of unclaimed pari-mutuel or sports wagering tickets
25 to the racing commission as required by KRS 230.362 shall, between November 1 and
26 November 15 of each year, turn over to the racing commission the sum represented by
27 the unclaimed pari-mutuel or sports wagering tickets so reported; but if the person

1 making the report or the owner of the unclaimed pari-mutuel *or sports wagering* ticket
2 certifies to the racing commission by sworn statement that any or all of the statutory
3 conditions necessary to create a presumption of abandonment no longer exists or never
4 did exist, or shall certify existence of any fact or circumstance in which there is
5 substantial evidence to rebut such presumption, then, the person reporting the unclaimed
6 pari-mutuel *or sports wagering* tickets or holding the sum represented by the unclaimed
7 pari-mutuel *or sports wagering* tickets as reported shall not be required to turn over said
8 sum to the racing commission except upon order of court. If the holder of any unclaimed
9 pari-mutuel *or sports wagering* ticket files an action in court claiming the sum which has
10 been reported under the provisions of KRS 230.362, the person reporting or holding the
11 sum represented by said unclaimed pari-mutuel *or sports wagering* ticket shall be under
12 no duty while any such action is pending to turn over said sum to the racing commission,
13 but shall have the duty of notifying the racing commission of the pendency of such
14 action.

15 ➔Section 23. KRS 230.364 is amended to read as follows:

16 Any person holding an unclaimed pari-mutuel *or sports wagering* ticket or any person
17 holding the sum represented by an unclaimed pari-mutuel *or sports wagering* ticket, or
18 any claimant thereto shall have the right to a judicial determination of his rights under
19 KRS 230.361 to 230.373 and nothing therein shall be construed otherwise; and the racing
20 commission may institute an action to recover the sum represented by the unclaimed pari-
21 mutuel *or sports wagering* tickets which are presumed abandoned whether said sum has
22 been reported or not and may include in one (1) petition the sum represented by all the
23 unclaimed pari-mutuel *or sports wagering* tickets as defined herein within the
24 jurisdiction of the court in which the action is brought.

25 ➔Section 24. KRS 230.365 is amended to read as follows:

26 Any person who pays the sum represented by the unclaimed pari-mutuel *or sports*
27 *wagering* tickets to the racing commission under KRS 230.363 is relieved of all liability

1 for the value of said unclaimed pari-mutuel or sports wagering tickets for any claim
2 made in respect of said unclaimed pari-mutuel or sports wagering tickets.

3 →Section 25. KRS 230.366 is amended to read as follows:

4 Any person claiming an interest in any unclaimed pari-mutuel or sports wagering ticket
5 which has been paid or surrendered to the racing commission in accordance with KRS
6 230.361 to 230.373 may file his or her claim to it at any time after it was paid to the
7 racing commission.

8 →Section 26. KRS 230.369 is amended to read as follows:

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

12 →Section 27. KRS 230.371 is amended to read as follows:

13 The racing commission may require the production of reports or the surrender of sums
14 represented by unclaimed pari-mutuel or sports wagering tickets as provided in KRS
15 230.361 to 230.373 by civil equity action, including~~[,]~~ but not limited to~~[,]~~ an action in
16 the nature of a bill of discovery, in which case the defendant shall pay a penalty equal to
17 ten percent (10%) of all amounts that he or she is ultimately required to surrender. The
18 racing commission shall follow the procedures provided by the Rules of Civil Procedure.

19 →Section 28. KRS 230.372 is amended to read as follows:

20 Any payments made to any persons claiming an interest in an unclaimed pari-mutuel or
21 sports wagering ticket, and any necessary expense including~~[,]~~ but not limited to~~[,]~~
22 administrative costs, advertising costs, court costs and attorney's fees, required to be paid
23 by the racing commission in administering or enforcing the provisions of KRS 230.361 to
24 230.373 shall be deducted from sums received by the racing commission prior to
25 payment to the Kentucky Racing Health and Welfare Fund.

26 →Section 29. KRS 230.373 is amended to read as follows:

27 Any holder of unclaimed pari-mutuel or sports wagering tickets affected by KRS

1 230.361 to 230.373 under disability shall have five (5) years after the disability is
2 removed in which to take any action or procedure or make any defense allowed to one sui
3 juris.

4 →Section 30. KRS 230.374 is amended to read as follows:

5 All sums reported and paid to the racing commission under the provisions of KRS
6 230.361 to 230.373, with the exception of funds paid *on sports wagering tickets and*
7 under KRS 230.398, shall be paid by the racing commission to the Kentucky Racing
8 Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the
9 benefit, aid, assistance, and relief of Thoroughbred owners, trainers, jockeys, valets,
10 exercise riders, grooms, stable attendants, pari-mutuel clerks, and other Thoroughbred
11 racing personnel employed in connection with racing, and their spouses and children,
12 who can demonstrate their need for financial assistance connected with death, illness, or
13 off-the-job injury and are not otherwise covered by union health and welfare plans,
14 workers' compensation, Social Security, public welfare, or any type of health, medical,
15 death, or accident insurance. These sums shall be paid on or before December 31 in each
16 year, however, no payments shall be made by the racing commission to the Kentucky
17 Racing Health and Welfare Fund, Inc., unless the racing commission and the Auditor of
18 Public Accounts are satisfied that the fund is in all respects being operated for the
19 charitable and benevolent purposes as set forth in this section and that no part of the
20 funds paid to the fund by the racing commission or any net earnings of the fund inure to
21 the benefit of any private individual, director, officer, or member of the fund or any of the
22 persons who turned over sums to the racing commission representing unclaimed pari-
23 mutuel tickets.

24 →Section 31. KRS 230.750 is amended to read as follows:

25 The commission, including the tax levied in KRS 138.510, deducted from the gross
26 amount wagered by the person, corporation, or association which operates a harness
27 horse track under the jurisdiction of the racing commission at which betting is conducted

1 through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of
 2 the gross amount handled on straight pari-mutuel wagering pools and twenty-five
 3 percent (25%) of the gross amount handled on multiple pari-mutuel wagering pools, plus
 4 the breaks, which shall be made and calculated to the penny, except on races previously
 5 run in which the breaks shall be made and calculated to the penny or retained in the pari-
 6 mutuel pools. Multiple pari-mutuel wagering pools shall include daily double, perfecta,
 7 double perfecta, quinella, double quinella, trifecta, and other types of exotic betting. An
 8 amount equal to three percent (3%) of the total amount wagered on pari-mutuel racing
 9 and included in the commission of a harness host track shall be allocated by the harness
 10 host track in the following manner. Two percent (2%) shall be allocated to the host for
 11 capital improvements, promotions, including advertising, or purses, as the host track shall
 12 elect. Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses.
 13 One-quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred
 14 development fund. This allocation shall be made after deduction from the commission of
 15 the pari-mutuel tax but prior to any other deduction, allocation or division of the
 16 commission.

17 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
 18 READ AS FOLLOWS:

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

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

22 (a) Players;

23 (b) Coaches;

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

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

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

3 (f) Employees of companies supplying technology or services related to sports
4 wagering to a track.

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

8 (a) The outcome of the sporting event; or

9 (b) Actions within the sporting event upon which people might place sports
10 wagers.

11 ➔Section 33. KRS 230.990 is amended to read as follows:

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

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

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

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

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

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

27 (b) Any person who, while outside the Commonwealth and with intent to

1 influence the outcome of a horse race contested within the Commonwealth,
2 tampers with or interferes with any equine participant involved in or eligible
3 to compete in a horse race in the Commonwealth is guilty of tampering with
4 or interfering with a horse race.

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

6 **(7) Any participant who wagers on a sporting event in violation of Section 32 of this**
7 **Act is guilty of a Class A misdemeanor.**

8 **(8) Any person tampering with the outcome of a sporting event in violation of Section**
9 **32 of this Act is guilty of a Class C felony.**

10 ➔Section 34. KRS 243.500 is amended to read as follows:

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

12 (1) Conviction of the licensee or the licensee's agent, servant, or employee for selling
13 any illegal alcoholic beverages on the licensed premises.

14 (2) Making any false, material statements in an application or renewal application for a
15 license or supplemental license.

16 (3) Conviction of the licensee or any of the licensee's agents, servants, or employees of:

17 (a) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244,
18 or any act regulating the manufacture, sale, and transportation of alcoholic
19 beverages within two (2) consecutive years;

20 (b) Two (2) misdemeanors directly or indirectly attributable to the use of
21 alcoholic beverages within two (2) consecutive years; or

22 (c) Any felony.

23 (4) Failure or default of a licensee to pay an excise tax or any part of the tax or any
24 penalties imposed by or under the provisions of any statutes, ordinances, or Acts of
25 Congress relative to taxation, or for a violation of any related administrative
26 regulations promulgated by the Department of Revenue.

27 (5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600,

1 and 243.610, or granted under any Act of Congress relative to the regulation of the
2 manufacture, sale, and transportation of alcoholic beverages.

3 (6) Setting up, conducting, operating, or keeping, on the licensed premises, any
4 gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or
5 facility for betting or transmitting bets on horse races; or permitting to be set up,
6 conducted, operated, kept, or engaged in, on the licensed premises, any gambling
7 game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility.

8 This subsection shall not apply to:

- 9 (a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;
- 10 (b) The operation of a pari-mutuel system for betting, **or the operation of sports**
11 **wagering**, where authorized by law;
- 12 (c) The conduct of charitable gaming by a charitable organization licensed or
13 permitted under KRS Chapter 238;~~or~~
- 14 (d) Special temporary raffles of alcoholic beverages under KRS 243.036; **or**
15 **(e) The conduct of fantasy contests or online poker licensed under KRS**
16 **Chapter 239.**

- 17 (7) Conviction of the licensee, the licensee's agents, servants, or employees for:
- 18 (a) The trafficking or possession upon the licensed premises of controlled or
19 illegal substances described in KRS Chapter 218A, including synthetic drugs;
- 20 (b) Knowingly permitting the trafficking or possession by patrons upon the
21 licensed premises of controlled or illegal substances described in KRS
22 Chapter 218A, including synthetic drugs; or
- 23 (c) Knowingly receiving stolen property upon the licensed premises.

24 (8) Failure to comply with the terms of a final order of the board.

25 ➔Section 35. KRS 525.090 is amended to read as follows:

- 26 (1) A person is guilty of loitering when he **or she**:
- 27 (a) Loiters or remains in a public place for the purpose of gambling with cards,

1 dice, or other gambling paraphernalia, except that the provisions of this
2 section shall not apply if the person is participating in charitable gaming
3 defined by KRS 238.505, or is engaged in sports wagering licensed under
4 *KRS Chapter 230 or fantasy contests or online poker authorized under KRS*
5 *Chapter 239*; ~~or~~

6 (b) Loiters or remains in a public place for the purpose of unlawfully using a
7 controlled substance; ~~or~~

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

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

16 (2) Loitering is a violation.

17 ➔Section 36. KRS 528.010 is amended to read as follows:

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

19 (1) "Advancing gambling activity" -- A person "advances gambling activity" when,
20 acting other than as a player, he engages in conduct that materially aids any form of
21 gambling activity *not authorized under KRS Chapter 230 or 239*. The conduct
22 shall include ~~but~~ but is not limited to ~~conduct~~ conduct directed toward the establishment of
23 the particular game, contest, scheme, device, or activity involved; toward the
24 acquisition or maintenance of premises, paraphernalia, equipment, or apparatus
25 therefor; toward the solicitation or inducement of persons to participate therein;
26 toward the actual conduct of the playing phases thereof; toward the arrangement of
27 any of its financial or recording phases or toward any other phase of its operation. A

1 person who gambles at a social game of chance on equal terms with other
2 participants does not otherwise advance gambling activity by performing acts,
3 without remuneration or fee, directed toward the arrangement or facilitation of the
4 game as inviting persons to play, permitting the use of premises therefor and
5 supplying equipment used therein;

6 (2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets
7 upon the outcome of future contingent events from members of the public as a
8 business **not authorized under KRS Chapter 230 or 239;**

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

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

18 (b) Gambling shall not mean charitable gaming which is licensed and regulated
19 under ~~the provisions of~~ KRS Chapter 238, **fantasy contest or online poker**
20 **wagering authorized under KRS Chapter 239, or activities licensed under**
21 **KRS Chapter 230;**

22 (5) "Gambling device" means:

23 (a) Any so-called slot machine or any other machine or mechanical device an
24 essential part of which is a drum or reel with insignia thereon, and which
25 when operated may deliver, as a result of the application of an element of
26 chance, any money or property, or by the operation of which a person may
27 become entitled to receive, as the result of the application of an element of

- 1 chance, any money or property;
- 2 (b) Any mechanical or electronic device permanently located in a business
3 establishment, including a private club, that is offered or made available to a
4 person to play or participate in a simulated gambling program in return for
5 direct or indirect consideration, including but not limited to consideration paid
6 for Internet access or computer time, or a sweepstakes entry, which when
7 operated may deliver as a result of the application of an element of chance,
8 any money or property, or by the operation of which a person may become
9 entitled to receive, as the result of the application of an element of chance, any
10 money or property; or
- 11 (c) Any other machine or any mechanical or other device, including but not
12 limited to roulette wheels, gambling tables and similar devices, designed and
13 manufactured primarily for use in connection with gambling and which when
14 operated may deliver, as the result of the application of an element of chance,
15 any money or property, or by the operation of which a person may become
16 entitled to receive, as the result of the application of an element of chance, any
17 money or property;
- 18 (d) But, the following shall not be considered gambling devices within this
19 definition:
- 20 1. Devices dispensing or selling combination or French pools on licensed,
21 regular racetracks during races on said tracks;
 - 22 2. Devices dispensing or selling combination or French pools on historical
23 races at licensed, regular racetracks as lawfully authorized by the
24 Kentucky Horse Racing Commission;
 - 25 3. Electro-mechanical pinball machines specially designed, constructed, set
26 up, and kept to be played for amusement only. Any pinball machine
27 shall be made to receive and react only to the deposit of coins during the

1 course of a game. The ultimate and only award given directly or
 2 indirectly to any player for the attainment of a winning score or
 3 combination on any pinball machine shall be the right to play one (1) or
 4 more additional games immediately on the same device at no further
 5 cost. The maximum number of free games that can be won, registered,
 6 or accumulated at one (1) time in operation of any pinball machine shall
 7 not exceed thirty (30) free games. Any pinball machine shall be made to
 8 discharge accumulated free games only by reactivating the playing
 9 mechanism once for each game released. Any pinball machine shall be
 10 made and kept with no meter or system to preserve a record of free
 11 games played, awarded, or discharged. Nonetheless, a pinball machine
 12 shall be a gambling device if a person gives or promises to give money,
 13 tokens, merchandise, premiums, or property of any kind for scores,
 14 combinations, or free games obtained in playing the pinball machine in
 15 which the person has an interest as owner, operator, keeper, or
 16 otherwise; ~~or~~

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

18 **5. Devices used in the conduct of fantasy contest or online poker**
 19 **wagering authorized under KRS Chapter 239; or**

20 **6. Devices used in the conduct of sports wagering licensed under KRS**
 21 **Chapter 230;**

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

23 (a) A gambling scheme in which:

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

- 1 2. The ultimate winner is to be determined by a drawing or by some other
2 method based upon the element of chance; and
- 3 3. The holders of the winning chances are to receive something of value;
4 and
- 5 (b) A gift enterprise or referral sales plan which meets the elements of a lottery
6 listed in paragraph (a) of this subsection is to be considered a lottery under
7 this chapter;
- 8 (7) "Mutuel" or "the numbers games" means a form of lottery in which the winning
9 chances or plays are not determined upon the basis of a drawing or other act on the
10 part of persons conducting or connected with the scheme, but upon the basis of the
11 outcome or outcomes of a future contingent event or events otherwise unrelated to
12 the particular scheme;
- 13 (8) "Player" means a person who engages in any form of gambling solely as a
14 contestant or bettor, without receiving or becoming entitled to receive any profit
15 therefrom other than personal gambling winnings, and without otherwise rendering
16 any material assistance to the establishment, conduct, or operation of the particular
17 gambling activity. A person who engages in "bookmaking" as defined in subsection
18 (2) of this section is not a "player." The status of a "player" shall be a defense to any
19 prosecution under this chapter;
- 20 (9) "Profiting from gambling activity" -- A person "profits from gambling activity"
21 when, other than as a player, he or she accepts or receives or agrees to accept or
22 receive money or other property pursuant to an agreement or understanding with
23 any person whereby he or she participates or is to participate in the proceeds of
24 gambling activity not authorized by KRS Chapter 230 or 239;
- 25 (10) "Simulated gambling program" means any method not authorized under KRS
26 Chapter 230 or 239, which is intended to be used by a person playing,
27 participating, or interacting with an electronic device that may, through the

1 application of an element of chance, either deliver money or property or an
2 entitlement to receive money or property; and

3 (11) "Something of value" means any money or property, any token, object, or article
4 exchangeable for money or property, or any form of credit or promise directly or
5 indirectly contemplating transfer of money or property or of any interest therein, or
6 involving extension of a service, entertainment, or a privilege of playing at a game
7 or scheme without charge.

8 ➔Section 37. KRS 528.020 is amended to read as follows:

9 (1) A person is guilty of promoting gambling in the first degree when he or she
10 knowingly advances or profits from unlawful gambling activity not authorized by
11 KRS Chapter 230 or 239 by:

12 (a) Engaging in bookmaking to the extent that he or she employs or utilizes three
13 or more persons in a bookmaking activity and receives or accepts in any one
14 day bets totaling more than \$500; or

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

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

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

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

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

22 ➔Section 38. KRS 528.070 is amended to read as follows:

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

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

1 ➔Section 39. KRS 528.080 is amended to read as follows:

2 (1) A person is guilty of possession of a gambling device when, with knowledge of the
3 character thereof, he *or she* manufactures, sells, transports, places or possesses a
4 gambling device or conducts or negotiates any transaction affecting or designed to
5 affect ownership, custody or use of any gambling device *not authorized under KRS*
6 *Chapter 230 or 239*, believing that it is to be used in the advancement of unlawful
7 gambling activity.

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

9 ➔Section 40. If any provision of this Act or the application thereof to any person
10 or circumstance is held invalid, the invalidity shall not affect other provisions or
11 applications of the Act that can be given effect without the invalid provision or
12 application, and to this end the provisions of this Act are severable.