

1 AN ACT relating to the provision for and control of casino gaming and making an
2 appropriation therefor.

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

4 ➔Section 1. The provisions of this Act shall take effect only upon the adoption of
5 a constitutional amendment by the voters of the Commonwealth authorizing casino
6 gaming in Kentucky.

7 ➔SECTION 2. KRS CHAPTER 239 IS ESTABLISHED AND A NEW
8 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

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

10 *(1) "Authorizing county or counties" means a county or group of counties which*
11 *have conducted a local option election to permit casino gaming within the*
12 *boundary of the county or counties;*

13 *(2) "Casino" means a facility at which casino gaming may be conducted upon*
14 *approval by the commission and by the population of the county, urban-county,*
15 *charter county, consolidated local government, or unified local government in*
16 *which the facility is to be located;*

17 *(3) "Casino gaming" and "gaming" mean the operation of gambling games at a*
18 *casino;*

19 *(4) "Commission" means the Kentucky Gaming Commission;*

20 *(5) "County" means a county, urban-county government, consolidated local*
21 *government, charter county government, or unified local government within the*
22 *Commonwealth of Kentucky;*

23 *(6) "County legislative body" means:*

24 *(a) In a county, the fiscal court;*

25 *(b) In an urban-county government, the urban- county council;*

26 *(c) In a consolidated local government, the consolidated local government*
27 *council;*

- 1 (d) In a unified local government, the legislative council; and
- 2 (e) In a charter county government, the charter county government legislative
- 3 body;
- 4 (7) "Department" means the Kentucky Department of Revenue;
- 5 (8) "Electronic gaming device" means an electronic or mechanical device which:
- 6 (a) Is approved by the commission;
- 7 (b) Simulates the play of one (1) or more gambling games;
- 8 (c) Uses spinning reels or video displays or both;
- 9 (d) Is utilized by a player's insertion of tokens or vouchers, or entry of
- 10 electronic credits into the device, which causes game play credits to be
- 11 displayed on the device and, with respect to each game play credit, entitles
- 12 the player to choose one (1) or more symbols or numbers or to cause the
- 13 device to randomly select symbols or numbers;
- 14 (e) Is based upon device-generated random selection of winning combinations
- 15 of symbols or numbers based wholly or predominantly on chance;
- 16 (f) Is used for the purpose of playing electronic gaming device games at a
- 17 casino; and
- 18 (g) May be known commonly as a "slot machine" or a "video slot machine";
- 19 (9) "Full casino" means a gaming facility at which both electronic gaming devices
- 20 and table games, including but not limited to blackjack, poker, and roulette, are
- 21 offered;
- 22 (10) "Gaming licensee" means a person licensed to operate a full or limited casino
- 23 under the provisions of this chapter;
- 24 (11) "Gross gaming revenue" means the handle less the total value of cash, vouchers,
- 25 tokens, or other indicators of value redeemed as winnings by players, excluding
- 26 any promotional free play credits or tokens;
- 27 (12) "Handle" means the total dollar value of cash, vouchers, tokens, or other

1 indicators of value wagered by players;

2 (13) "Licensee" means a person holding a license issued under this chapter to:

3 (a) Operate a full or limited casino;

4 (b) Supply gaming equipment; or

5 (c) Work within the gaming industry in any of the occupations the commission
6 has deemed to be a licensed occupation under the authority of this chapter;

7 (14) "Limited casino" means a gaming facility located only at a racing association
8 licensed under KRS Chapter 230 and at which only electronic gaming devices are
9 offered for play; and

10 (15) "Principal" means any of the following individuals associated with a
11 partnership, trust, association, limited liability company, or corporation that is
12 licensed or applies for a license under this chapter:

13 (a) The chairman and all members of the board of directors of a corporation;

14 (b) All partners of a partnership and all participating members of a limited
15 liability company;

16 (c) All trustees and trust beneficiaries of an association;

17 (d) The president or chief executive officer and all other officers, managers,
18 and employees who have policy-making or fiduciary responsibility within
19 the organization;

20 (e) All stockholders or other individuals who own, hold, or control, either
21 directly or indirectly, five percent (5%) or more of stock or financial interest
22 in the collective organization; and

23 (f) Any other employee, agent, guardian, personal representative, or lender or
24 holder of indebtedness who has the power to exercise a significant influence
25 over the applicant's or licensee's operation.

26 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) The Kentucky Gaming Commission is hereby created and established as an
2 agency of state government charged with the responsibility for regulatory
3 oversight and the establishment of sound policies and procedure governing the
4 conduct of gaming within the Commonwealth of Kentucky, excluding the
5 conduct of the Kentucky state lottery authorized under KRS Chapter 154A, horse
6 racing authorized by KRS Chapter 230, and charitable gaming authorized under
7 KRS Chapter 238. The commission shall be attached to the Public Protection
8 Cabinet for administrative purposes.

9 (2) (a) The commission shall be composed of the following seven (7) members:

- 10 1. The Auditor of Public Accounts, or the Auditor's designee;
- 11 2. The Attorney General, or the Attorney General's designee;
- 12 3. One (1) member appointed by the Governor from a list of names
13 submitted by the licensed tracks operating in the state under the
14 authority of KRS Chapter 230; and
- 15 4. Four (4) members appointed by the Governor from the state at large.

16 (b) The members of the commission appointed by the Governor shall serve for a
17 term of three (3) years at the pleasure of the Governor, with initial terms
18 staggered so that one (1) member shall serve one (1) year and two (2)
19 members shall serve two (2) years.

20 (c) At the first meeting of the commission, a chairperson shall be selected by
21 the members.

22 (d) No member of the commission shall have any financial or controlling
23 interest in any entity licensed under the provisions of this chapter.

24 (3) Before assuming his or her duties, each commissioner shall:

25 (a) Take the constitutional oath of office; and

26 (b) Swear that he or she:

- 27 1. Is not actively engaged in the business of operating a casino or

- 1 manufacturing or supplying gaming supplies and equipment; and
- 2 2. Does not hold a pecuniary interest in any entity actively engaged in
- 3 the business of operating a casino or horse racing track or
- 4 manufacturing or supplying gaming supplies and equipment.
- 5 (4) Members of the commission shall receive one hundred fifty dollars (\$150) per day
- 6 for each meeting attended and shall be reimbursed for all actual and necessary
- 7 expenses incurred in the discharge of official business.
- 8 (5) The commission shall establish and maintain a general office for the transaction
- 9 of its business and may in its discretion establish a branch office or offices. The
- 10 commission may hold meetings at any of its offices or at any other place when the
- 11 convenience of the commission requires.
- 12 (6) A majority of the commission shall constitute a quorum for the transaction of its
- 13 business or exercise of its power.
- 14 (7) The commission shall hold at least one (1) meeting each month.
- 15 (8) All meetings of the commission shall be open to the public unless the provisions
- 16 of KRS 61.810 regarding closed meetings of public agencies apply.
- 17 (9) When conducting a public hearing, the commission shall not limit the number of
- 18 speakers who may testify; however, the commission may:
- 19 (a) Set reasonable time limits on the length of an individual's testimony; or
- 20 (b) Limit the total amount of time allotted to proponents and opponents of an
- 21 issue before the commission.
- 22 (10) The chairperson or a majority of the commission may call a special meeting;
- 23 however, a special meeting shall not be held earlier than seventy-two (72) hours
- 24 after written notice has been sent to each member.
- 25 (11) No commission member shall communicate ex parte or off the record with any
- 26 applicant, any individual employee of the applicant, or any person who has a
- 27 direct or an indirect interest in the outcome regarding a pending application for a

1 manufacturer's, supplier's, occupational, or gaming license.

2 (12) If an ex parte communication occurs, the commissioner receiving it shall note the
3 occurrence and shall:

4 (a) Place in the applicant's file a copy of the communication, if it was written;

5 or

6 (b) Place a memorandum of the substance of the communication, if it was oral;

7 and

8 (c) Notify the chairperson of the occurrence in writing.

9 (13) (a) A commissioner receiving an ex parte communication may voluntarily
10 recuse himself or herself from any role in deciding the matter subject of the
11 communication and shall provide written notice of recusal to the
12 chairperson.

13 (b) Upon receipt of notice of an ex parte communication, the chairperson may
14 recommend recusal of the recipient, and such recusal shall be affirmed by a
15 majority of the commissioners present voting at a special or regular
16 meeting.

17 (c) In determining whether to recommend recusal of a commissioner, the
18 chairperson shall take into account whether or not, based on the
19 circumstances surrounding the ex parte communication and the recipient's
20 conduct with respect to it, the recipient's further participation in the
21 decision-making process would diminish public confidence in the
22 commission's integrity and that of its processes and procedures.

23 (d) Initiation of an ex parte communication by a commissioner may constitute
24 cause for removal from the commission.

25 (14) Initiation of an ex parte communication by an applicant or license holder, or by
26 their affiliates, owners, or controllers for the purpose of influencing a
27 commissioner's decision with respect to any pending matter concerning an

1 application or license, may constitute cause for denial, revocation, or nonrenewal
2 of a license.

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

5 (1) In furtherance of the purposes of Sections 2 to 27 of this Act and the fulfillment
6 of its responsibilities, the commission and its agents and employees may:

7 (a) Inspect and examine all premises where casino gaming is conducted or
8 gaming supplies, devices, or equipment are stored, manufactured, sold, or
9 distributed;

10 (b) Inspect all gaming supplies, devices, or equipment in, upon, or about the
11 premises;

12 (c) Summarily seize, remove, and impound any equipment, supplies,
13 documents, or records related to the operation of a casino and casino
14 gaming, or related to the manufacture, sale, and distribution of gaming
15 supplies, devices, or equipment for the purpose of examination and
16 inspection;

17 (d) 1. Demand access to, and inspect, examine, photocopy, and audit all
18 papers, books, and records of any applicant, licensee, or former
19 licensee on his or her premises or elsewhere, as practicable, regarding
20 receipts generated by:

21 a. The manufacture, sale, and distribution of gaming supplies,
22 devices, or equipment;

23 b. The operation of a casino and casino gaming; and

24 c. All other matters related to gaming affecting the enforcement of
25 the policy or any of the provisions of this chapter.

26 2. For purposes of this paragraph, a former licensee shall maintain
27 records regarding its activities for a period of three (3) years from the

- 1 date of surrender, expiration, nonrenewal, or any other loss of license;
2 and
- 3 (e) 1. Demand access to, and inspect, examine, photocopy, and audit all
4 papers, books, and records of any affiliate of an applicant, licensee, or
5 former licensee related to:
- 6 a. The manufacture, sale, and distribution of gaming supplies,
7 devices, or equipment; and
- 8 b. The operation of a casino and casino gaming, when the
9 commission knows or reasonably suspects the affiliate is
10 involved in the financing, operation, or management of the
11 licensee's or applicant's operations.
- 12 2. For purposes of this paragraph, an affiliate of a former licensee shall
13 maintain records regarding its activities for a period of three (3) years
14 from the date of surrender, expiration, nonrenewal, or other loss of
15 license.
- 16 (2) The commission shall have the power to issue subpoenas for the purpose of
17 compelling the attendance of witnesses and the production of documents,
18 records, papers, books, supplies, devices, equipment, and all other
19 instrumentalities relative to the operation of a casino, casino gaming, and
20 the manufacture, sale, and distribution of gaming supplies, devices, and
21 equipment.
- 22 (3) (a) The commission shall have the power to administer oaths and to require
23 testimony under oath.
- 24 (b) Service of any process or notice issued under this chapter shall be
25 accomplished in the manner provided for service of process in civil actions.
- 26 (c) The commission may pay the actual expenses of a witness responding to a
27 subpoena when the commission determines that it is necessary and proper

1 to do so.

2 (4) The commission may investigate, for the purpose of prosecution, any suspected
 3 regulatory or criminal violation of the provisions of this chapter.

4 (5) For the purpose of the administration of the provisions of this chapter:

5 (a) Gaming commission employees responsible for the detection of suspected
 6 criminal or civil violations of statutes or administrative regulations shall
 7 have the powers of peace officers in the Commonwealth and shall be
 8 certified as such;

9 (b) The Department of Kentucky State Police shall assist the commission in
 10 criminal investigations as may be necessary;

11 (c) The commission and the State Police may seek assistance in such
 12 investigations from the Attorney General and from law enforcement
 13 agencies in the jurisdiction in which a license holder or other target of an
 14 investigation is located; and

15 (d) Upon the date that commission officers are certified as peace officers,
 16 primary responsibility for conducting criminal investigations relative to the
 17 operation of casinos and casino gaming shall rest with the commission,
 18 which may continue to seek assistance from the State Police, Attorney
 19 General, or other law enforcement agencies as circumstances may warrant.

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

22 The commission shall:

23 (1) Promulgate administrative regulations necessary to the administration of this
 24 chapter and the enforcement of its provisions. The commission shall comply with
 25 the provisions of KRS Chapter 13A regarding the promulgation of administrative
 26 regulations. Subjects addressed by the commission through the promulgation of
 27 administrative regulations shall include but not be limited to:

- 1 (a) Licensing of gaming licensees;
- 2 (b) Establishment of hours of operation for casinos and approval of gambling
- 3 games, supplies, devices, and associated equipment;
- 4 (c) Examination and audit of accounts, bank accounts, financial statements,
- 5 records, books, and papers of applicants, licensees, former licensees, and
- 6 their affiliates;
- 7 (d) Penalties, including administrative fines, for violation of this chapter or
- 8 administrative regulations promulgated thereunder; and
- 9 (e) Revocation, suspension, or nonrenewal of licenses for violation of this
- 10 chapter or administrative regulations promulgated thereunder;
- 11 (2) Develop a public education program concerning the dangers of problem and
- 12 compulsive gaming. Any program implemented under authority of this subsection
- 13 shall be implemented through collaborative efforts between the commission and
- 14 its licensees; and
- 15 (3) (a) File a written annual report with the Governor and the Legislative Research
- 16 Commission.
- 17 (b) The first report shall be due twelve (12) months after the effective date of
- 18 this Act, and each subsequent annual report shall be due before December 1
- 19 of each succeeding year.
- 20 (c) The annual report shall include a statement describing the following:
- 21 1. The receipts and disbursements of the commission;
- 22 2. Actions taken by the commission; and
- 23 3. Any additional information and recommendation that the commission
- 24 considers useful or that the Governor or the Legislative Research
- 25 Commission requests.

26 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO

27 READ AS FOLLOWS:

1 (1) The Governor shall appoint an executive director who shall serve at the pleasure
 2 of the Governor. The Governor shall set the qualifications and salary for the
 3 position of executive director pursuant to KRS 64.640.

4 (2) The executive director shall:

5 (a) Be responsible for the day-to-day operations of the commission;

6 (b) Set up appropriate organizational structures and personnel policies for
 7 approval by the commission;

8 (c) Appoint all staff;

9 (d) Prepare the annual reports of the commission's work and submit the reports
 10 to the members of the commission, the Governor, and the Legislative
 11 Research Commission;

12 (e) Carry out policy and program directions of the commission;

13 (f) Prepare and submit to the commission for its approval the proposed
 14 biennial budget of the commission; and

15 (g) Cause to be kept a full record of all proceedings before the commission and
 16 preserve at its general office all books, maps, records, documents, licenses,
 17 and financial statements and records.

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

20 Commission members, the executive director, and all commission employees shall be
 21 subject to all applicable provisions of KRS Chapter 11A.

22 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) An application for full or limited casino gaming shall not be approved by the
 25 commission unless the county or counties in which the casino is to be located has
 26 approved casino gaming.

27 (2) Counties, urban-county governments, charter county governments, consolidated

1 local governments, or unified local governments that wish to allow casino
2 gaming shall approve the operation of casino gaming within their jurisdiction
3 only by local option election.

4 (3) Local option elections for the purpose of approving casino gaming may be
5 conducted if:

6 (a) 1. The county, urban-county government, charter county government,
7 consolidated local government, or unified local government has a
8 population in excess of thirty thousand (30,000); or

9 2. Two (2) or more adjoining counties with a total population of more
10 than thirty thousand (30,000) join together in mutual agreement; and

11 (b) 1. The county legislative body or bodies approves an ordinance directing
12 an election to be held in that territory or territories; or

13 2. A petition for an election is signed by a number of constitutionally
14 qualified voters of the county or counties equal to twenty-five percent
15 (25%) of the votes cast in each county petitioning at the last preceding
16 general election.

17 (4) Notwithstanding subparagraph 1. of paragraph (a) of subsection (3) of this
18 section, a county with a population of less than thirty thousand (30,000) may
19 conduct an election and approve casino gaming within the county if:

20 (a) The county contains a racing association licensed under KRS Chapter 230;
21 and

22 (b) The election extends the approval of casino gaming only to a limited casino
23 located at the site of the racing association.

24 (5) If a petition for a local option election for the purpose of approving the conduct
25 of casino gaming in the county is circulated:

26 (a) The petition:

27 1. May consist of one (1) or more separate units;

- 1 2. In addition to the name of the voter, shall state the voter's residence
2 address, Social Security number or date of birth, and the correct date
3 upon which his or her name was signed; and
- 4 3. Shall specify whether the election is to be held to allow the operation
5 of a full casino, a limited casino, or both;
- 6 (b) No signer may withdraw his or her name or have it taken from the petition
7 after the petition has been filed. If the name of any person has been placed
8 on the petition for election without his or her authority:
- 9 1. He or she may appear before the county judge/executive before the
10 election is ordered and, upon proof that his or her name was placed on
11 the petition without his or her authority, that name shall be eliminated
12 by an order of the county judge/executive; and
- 13 2. When his or her name has been eliminated, that name shall not be
14 counted as a petitioner;
- 15 (c) No petition for a local option election for the purpose of approving the
16 conduct of casino gaming shall be circulated for more than six (6) months
17 prior to its filing; and
- 18 (d) After a petition for election has been filed with the county clerk, the county
19 judge/executive shall make an order on the order book of the county
20 legislative body directing an election to be held in that territory.
- 21 (6) The date of the local option election:
- 22 (a) May be stated in the ordinance passed by the county legislative body;
23 (b) May be stated in the petition for election; or
24 (c) If the date is not stated, it shall be designated by the county judge/executive.
- 25 (7) The local option election shall be held:
- 26 (a) During the next general election; or
27 (b) Not earlier than sixty (60) days nor later than ninety (90) days after:

- 1 1. The adoption of the ordinance by the county legislative body; or
 2 2. The date the petition is filed with the county clerk.
- 3 (8) The local option election may be held on the same day that a primary or general
 4 election is held, or on a day other than a primary or general election day.
- 5 (9) No local option election shall be held in the same county more than once every
 6 three (3) years.
- 7 (10) If more than one (1) county has joined in mutual agreement to petition voters on
 8 the question of approving casino gaming, the citizens of each participating
 9 county shall approve the measure before any county that has joined in the mutual
 10 agreement may proceed to the commission to authorize an invitation to bid for
 11 the purpose of establishing casino gaming.

12 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 13 READ AS FOLLOWS:

- 14 (1) Within five (5) days after the county judge/executive orders an election, the
 15 county clerk shall give to the sheriff a certified copy of the order.
- 16 (2) The sheriff shall:
- 17 (a) Have the order published pursuant to KRS Chapter 424 in the county;
 18 (b) Advertise the order by written or printed handbills posted at not less than
 19 five (5) conspicuous places in each precinct in the county for two (2) weeks
 20 before the election; and
- 21 (c) Report to the county judge/executive that the notices have been published
 22 and posted.

23 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 24 READ AS FOLLOWS:

- 25 If an election to approve gaming within a county is to be on a day other than a primary
 26 or regular election day, then:
- 27 (1) Not more than twenty (20) days prior to an election, any group of citizens that in

- 1 good faith favors or opposes the proposition to be submitted may file with the
2 chairperson of the county board of elections a petition asking that it be
3 recognized as the committee entitled to nominate election officers and to certify:
4 (a) Challengers;
5 (b) Witnesses to the counting of the votes and certification of the results; and
6 (c) Guards to assist in guarding the boxes or machines containing the votes
7 which have been cast during the period which the group desires.
8 (2) If more than one (1) group claims the right to nominate election officers and
9 certify challengers, witnesses, and guards, the county board of elections shall
10 promptly decide and publicly announce which committee is entitled to nominate
11 officers and certify challengers, witnesses, and guards.
12 (3) The decision of the county board of elections required under subsection (2) of
13 this section may be appealed to the county judge/executive, and, upon hearing,
14 the county judge/executive shall determine which group shall be recognized.
15 (4) The respective committees advocating and opposing the proposition shall each
16 file with the chairperson of the county board of elections before the time
17 designated for the selection of officers a list of not more than four (4) persons
18 possessing the qualifications of election officers for each voting precinct, and the
19 board of elections shall appoint the officers from those lists as provided in
20 subsection (6) of this section.
21 (5) The committees may sign and issue certifications designating:
22 (a) Challengers at the polls;
23 (b) Witnesses to the count of votes; and
24 (c) Guards to assist in guarding the boxes containing the vote which have been
25 cast, in the same manner as political committees under the general election
26 laws.
27 (6) The county board of elections, not more than fifteen (15) and not less than ten

1 (10) days before the day appointed for the holding of the election shall:

2 (a) Appoint officers to conduct the election in the manner provided by general
3 election laws;

4 (b) Make equal division of officers between those favoring and those opposing
5 the proposition, instead of between political parties; and

6 (c) Make the same equal division of challengers at the polls, of witnesses at the
7 count, and of guards to guard the boxes.

8 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) The result of the election shall be certified by the county board of elections.

11 (2) The certificate of the result shall be immediately filed with the county clerk and
12 the county judge/executive shall have the certificate entered on the order book.

13 (3) The entry of the certificate, or an attested copy thereof, shall be prima facie
14 evidence of the result of the election in actions under this chapter.

15 (4) An attested copy of the certificate of the result shall be forwarded by the county
16 clerk to the commission.

17 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) The commission shall be the only government agency in the Commonwealth
20 authorized to solicit bids for the purpose of licensing casino gaming in a county.

21 (2) Upon receipt of a certificate of result from a county clerk or clerks reporting that
22 a ballot measure to authorize casino gaming has passed, the commission shall:

23 (a) Determine that the county or counties applying meet the population
24 threshold specified in Section 8 of this Act; and

25 (b) Determine whether a racing association licensed under KRS Chapter 230 is
26 located within the geographical territory corresponding to the county or
27 counties notifying the commission of their election results.

- 1 (3) If a racing association licensed under KRS Chapter 230 is located within the
2 geographical territory corresponding to the county or counties electing to offer
3 casino gaming, in addition to the requirements of subsections (4) and (5) of this
4 section, the commission shall:
- 5 (a) Submit a limited casino license application packet to each racing
6 association within the territory; and
- 7 (b) Issue a limited casino license to the racing association if:
- 8 1. The racing association successfully completes the application process
9 established by Section 17 of this Act; and
- 10 2. The racing association pays a four hundred fifty thousand dollar
11 (\$450,000) initial licensing fee.
- 12 (4) After receipt of a certificate of results from a county clerk or clerks and validation
13 of the population requirement, the commission shall advertise an invitation to bid
14 for an initial full casino license within the geographical area corresponding to
15 the county or counties electing to offer casino gaming.
- 16 (5) Advertisements for an invitation to bid for an initial full casino license:
- 17 (a) Shall be placed in at least two (2) newspapers with the largest circulation
18 within the Commonwealth;
- 19 (b) May be advertised on the Internet or other electronic media of general
20 circulation;
- 21 (c) May not be conducted by mail, phone, or other media directly to a company
22 or companies involved in the casino gaming industry;
- 23 (d) Shall contain a description of the geographical area involved and note the
24 location of any racing associations licensed under KRS Chapter 230 within
25 the geographical area;
- 26 (e) Shall include any restrictions on the casino the county deems necessary;
- 27 (f) Shall include a description from the county of the minimum acceptable

- 1 facility;
- 2 (g) Shall include a requirement that responses to the invitation to bid be
- 3 submitted to and received by the commission within sixty (60) days of the
- 4 date of the initial advertisement; and
- 5 (h) Shall include a requirement that responses include the amount the
- 6 respondent will pay for initial casino licensure, as well as:
- 7 1. The planned location of the casino;
- 8 2. A description of the planned facility and any amenities to be included
- 9 in addition to the casino;
- 10 3. The number of employees planned for the facility;
- 11 4. Estimated annual gross gaming revenue; and
- 12 5. Any other information the commission deems necessary or relevant.

13 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO

14 READ AS FOLLOWS:

- 15 (1) (a) The commission, with input from the county or counties voting to authorize
- 16 casinos, shall evaluate all proposals for full casinos to determine their
- 17 feasibility.
- 18 (b) Factors to be evaluated for feasibility shall be those specified in Section
- 19 12(5)(h) of this Act.
- 20 (c) Proposals found not to be feasible shall be returned to the respondent by the
- 21 commission with a detailed explanation for the finding.
- 22 (d) A copy of any returned proposal and the explanation for finding it not to be
- 23 feasible shall be retained by the commission and shall be a public record to
- 24 be furnished upon request to any interested party.
- 25 (e) A racing association licensed under KRS Chapter 230 which has been
- 26 issued a limited casino application packet under Section 12 of this Act:
- 27 1. May also apply for a full casino license; and

- 1 2. May delay submission of its limited casino license until the outcome of
2 the application for full casino licensure is known.
- 3 (2) Sixty (60) days after issuing the initial invitation to bid, the commission shall stop
4 accepting bids with the exception of bids issued pursuant to subsection (4) of this
5 section.
- 6 (3) (a) Proposals found to be feasible shall be ranked based upon the amount bid
7 in response to the invitation to bid.
- 8 (b) The amount bid in response to the invitation shall be considered the initial
9 licensing fee for the casino.
- 10 (c) No full casino initial licensing fee bid amount for less than seven hundred
11 fifty thousand dollars (\$750,000) shall be accepted.
- 12 (d) No county or other local government shall charge any licensing fee in
13 addition to the initial licensing fee.
- 14 (4) (a) Notwithstanding other provisions of this section, a racing association
15 located within the same county as the planned location of the casino shall
16 be offered the opportunity to enter the bidding process at any time during
17 the bidding process, or after the commission stops accepting bids.
- 18 (b) Racing associations located within the same county as the planned casino
19 may require the commission to report the highest amount bid for the initial
20 casino license in their county.
- 21 (c) Racing associations may enter a bid after the commission stops accepting
22 bids:
- 23 1. In the amount of the highest amount bid, plus eight percent (8%); and
24 2. With a guarantee of providing the same or equivalent amenities as the
25 highest bid amount.
- 26 (d) Should a racing association desire to exercise its bidding right under this
27 subsection, it must do so within two (2) business days of the completion of

1 bidding.

2 (5) The initial full casino license shall be provisionally awarded to the respondent
 3 with the highest amount bid within four (4) business days after the sixty (60) day
 4 bidding deadline if the respondent:

5 (a) Successfully completes all aspects of the initial casino licensing process
 6 specified in Section 14 of this Act;

7 (b) Provides full payment to the commission within thirty (30) days after the bid
 8 award; and

9 (c) Provides any additional information the commission requests.

10 (6) If the respondent provisionally awarded the initial license is unable to fulfill
 11 paragraphs (a), (b), and (c) of subsection (5) of this section:

12 (a) The provisional award shall be withdrawn; and

13 (b) The respondent with the next highest bid amount shall be provisionally
 14 awarded the initial license.

15 (7) Amounts paid to the commission for initial full casino license awards shall be
 16 deposited in the general fund.

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

19 (1) Applications for a full casino license, manufacturer's license, or supplier's
 20 license shall be submitted on application forms furnished by the commission. All
 21 applications shall be submitted to the commission in accordance with procedures
 22 adopted through the promulgation of administrative regulations.

23 (2) The commission shall not issue a license unless it has determined that the
 24 applicant has submitted a completed application and has submitted all
 25 supplemental documentation or other information the commission may require
 26 for a thorough evaluation of the applicant's proposals and qualifications.
 27 Information submitted under this section shall be subject to the Kentucky Open

1 Records Act, KRS 61.872 to 61.884.

2 (3) The commission shall not grant a license authorized under this chapter to any
3 applicant for a full casino, manufacturer's, or supplier's license if the
4 commission determines that any of the applicant's principals:

5 (a) Has been convicted of a felony in this or any other jurisdiction, unless at
6 least five (5) years have elapsed from the date that the applicant was
7 discharged from probation, imprisonment, or parole, whichever is later;

8 (b) Has been convicted of any illegal gambling activity in this or any other
9 jurisdiction unless at least five (5) years have elapsed from the date that the
10 applicant was discharged from probation, imprisonment, or parole,
11 whichever is later;

12 (c) Has been found to have violated the provisions of this chapter or any
13 administrative regulation adopted hereunder, unless at least five (5) years
14 have passed since the violation;

15 (d) Resides in the same household as an member of the commission; or

16 (e) Has made a statement of material fact to the commission, knowing such
17 statement to be false, unless at least ten (10) years have passed since the
18 statement was made.

19 (4) Applications for a full casino license, manufacturer's license, or supplier's
20 license shall contain, at a minimum, the following information:

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

22 (b) The name, business address, and telephone number of any attorney that
23 may represent the applicant in matters before the commission;

24 (c) The name, business address, and telephone number of any individual
25 designated by the applicant as a contact person with whom the commission
26 shall communicate concerning the application;

27 (d) The name, business address, and telephone number of all individuals who:

- 1 1. Answer questions set forth in an application;
2 2. Make statements in an application; or
3 3. Provide documents or other information to be submitted to the
4 commission in connection with an application;
5 (e) In the case of an application for a supplier's or manufacturer's license, the
6 location of the applicant's principal place of business and all locations at
7 which gaming supplies and equipment furnished for use in Kentucky are
8 manufactured, assembled, or held prior to distribution to gaming licensees;
9 (f) In the case of an application for a full casino license:
10 1. The applicant's principal place of business; and
11 2. The location of the proposed casino;
12 (g) If the applicant is a racing association:
13 1. The applicant's principal place of business; and
14 2. The location of the horse racing track or other facility at which the
15 applicant proposes to operate a casino;
16 (h) A description of the applicant's ownership structure and identification of
17 the principals of the applicant;
18 (i) A statement as to whether the applicant possesses or has possessed any
19 license or other grant of authority in Kentucky or in any other state or
20 foreign country regarding:
21 1. The operation of a casino;
22 2. Any gaming-related activity; or
23 3. The manufacture or distribution of gaming supplies and equipment;
24 (j) A statement as to whether the applicant has ever had any license or other
25 grant of authority referred to in paragraph (i) of this subsection revoked,
26 denied, or not renewed, with a description of the reasons for loss of the
27 license or grant of authority;

1 (k) A statement as to whether the applicant or any principal of the applicant
2 has been indicted for or convicted of a felony in:

- 3 1. Kentucky;
- 4 2. Any other state;
- 5 3. In a federal court; or
- 6 4. In a foreign country.

7 An applicant, owner, or controller possessing a conviction or subject to
8 indictment shall provide documentation detailing the charges, dates of the
9 charges, the prosecuting authorities, disposition of the charges, and
10 sentencing;

11 (l) A statement as to whether the applicant or any person who owns or controls
12 the applicant:

- 13 1. Has been the subject of any voluntary or involuntary bankruptcy
14 proceeding;
- 15 2. Has been involved in a formal process to adjust, defer, suspend, or
16 resolve the payment of a debt; or
- 17 3. Has been served with a complaint or notice filed in a court or with any
18 government body concerning state, local, or federal tax delinquency.

19 An applicant, owner, or controller shall supplement the application with
20 any documentation or information necessary to explain the circumstances
21 addressed in subparagraphs 1. to 3. of this paragraph, if applicable;

- 22 (m) 1. Fingerprints from each principal for a national criminal records
23 check by the commission and the Federal Bureau of Investigation.
- 24 2. Investigative assistance may be provided by the Department of
25 Kentucky State Police and the Administrative Office of the Courts.
- 26 3. Fingerprints shall be accompanied by a signed authorization for the
27 release of the information by the Department of Kentucky State Police

- 1 and the Federal Bureau of Investigation;
- 2 (n) A statement listing the names and titles of public officials or officers of any
- 3 unit of government and their family members who:
- 4 1. Directly or indirectly have a financial or beneficial interest in;
- 5 2. Are the creditors of;
- 6 3. Hold a debt instrument issued by; or
- 7 4. Have an interest in a contractual or service relationship with;
- 8 an applicant for a license issued under the authority of this chapter;
- 9 (o) In the case of an applicant for a manufacturer's or supplier's license, a
- 10 statement describing the types of products and services the applicant intends
- 11 to furnish;
- 12 (p) Copies of the applicant's latest federal and state income tax returns; and
- 13 (q) Any other information the commission may require.
- 14 (5) All applicants and licensees shall report to the commission concerning any
- 15 changes in information required to be submitted in an application within thirty
- 16 (30) days after becoming aware of the circumstance requiring them to make a
- 17 report.
- 18 (6) With respect to manufacturer's and supplier's license applications, upon a
- 19 determination that the applicant qualifies for the license, the commission:
- 20 (a) 1. Shall issue a manufacturer's or supplier's license within ninety (90)
- 21 days of its receipt of:
- 22 a. A completed application accompanied by all required fees; and
- 23 b. The fingerprint cards necessary to process a state and national
- 24 criminal history record check; or
- 25 2. Shall deny a manufacturer's or supplier's license if the applicant does
- 26 not qualify for the license; or
- 27 (b) 1. May issue a temporary manufacturer's or supplier's license if it:

- 1 a. Has received a completed application with the required fees and
2 fingerprint cards;
- 3 b. Has initially determined the application to be materially
4 accurate; and
- 5 c. Is unable to issue the license within ninety (90) days after receipt
6 due to circumstances that are not the fault of the applicant.
- 7 2. A temporary manufacturer's or supplier's license shall be valid for a
8 period of ninety (90) days and shall not be renewed;
- 9 (c) Shall issue a denial of the applicant's license if the commission determines
10 the applicant is unqualified for a manufacturer's or supplier's license upon
11 or before the expiration of the applicant's temporary license; and
- 12 (d) Shall send notice of license denial in writing, and service thereof shall be
13 accomplished:
- 14 1. In the manner provided for service of process in civil actions; or
15 2. By certified mail, return receipt requested, to the address provided by
16 the applicant in the license application.
- 17 (7) An applicant operating under the authority of a temporary manufacturer's or
18 supplier's license shall cease all operations for which a license is required upon
19 receipt of notice of denial, or upon the expiration of the temporary license,
20 whichever is earlier.
- 21 (8) An applicant aggrieved by the commission's denial of a license application under
22 this section may request administrative review in accordance with Section 21 of
23 this Act.
- 24 (9) The commission may investigate the holder of a license at any time it determines
25 that an investigation is necessary to ensure that the license holder is in
26 compliance with the provisions of this chapter.
- 27 (10) The holder of a manufacturer's, supplier's, or casino license shall not transfer or

1 assign the license without prior approval of the commission. The commission
 2 may promulgate administrative regulations to establish criteria and procedures
 3 governing the transfer of licenses.

4 (11) Unless a license is suspended, expires, or is revoked, it may be renewed annually
 5 upon:

6 (a) Payment of the license and renewal fee as promulgated by the commission
 7 in administrative regulations; and

8 (b) A determination by the commission that the holder of the license is in
 9 compliance with the provisions of this chapter.

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

12 No person shall sell, lease, or otherwise furnish gaming supplies and equipment in the
 13 Commonwealth of Kentucky unless the person possesses a supplier's or
 14 manufacturer's license issued by the commission.

15 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) Racing associations licensed under KRS Chapter 230 located within a county that
 18 votes to approve casino gaming shall be offered a limited casino license.

19 (2) A limited casino license shall authorize the holder to operate electronic gaming
 20 devices, but shall not authorize any other aspect of casino gaming.

21 (3) Issuance of an initial license for limited casino gaming shall be contingent upon:

22 (a) 1. Successful completion of the initial licensing process as provided in
 23 Section 17 of this Act; and

24 2. Payment of an initial limited casino licensing fee of four hundred fifty
 25 thousand dollars (\$450,000); but

26 (b) Shall not be contingent upon the racing association also being awarded a
 27 full casino license.

1 (4) Amounts paid to the commission for initial limited casino license fees shall be
2 deposited in the general fund.

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

5 (1) Due to the licensing requirements placed upon horse racing tracks in the
6 Commonwealth and the stringent oversight of the horse racing industry provided
7 by the authority, it is the intent of this chapter to limit the licensing of limited
8 casino operators to race tracks licensed under KRS Chapter 230. Additionally,
9 prior to the operation of any electronic gaming device, the track shall obtain the
10 following:

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

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

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

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

23 (2) A track that holds a limited casino license shall, during each year in which it
24 holds the license, run at least as many race days and live races for the same
25 primary breed as were run in calendar year 2021 and simulcast at least as many
26 race days and live races for the same primary breed as were simulcast in calendar
27 year 2021, unless a temporary reduction in the number of live races is otherwise

1 agreed to by:

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

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

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

9 (a) Flood;

10 (b) Fire;

11 (c) Inclement weather;

12 (d) Natural disaster; or

13 (e) Emergencies for other reasons beyond the control of the racetrack.

14 (4) On any day during a recognized race meeting on which an approved track does
15 not run and simulcast live races, unless races are canceled because an emergency
16 as described in subsection (3) of this section occurs, the approved track shall not
17 operate electronic gaming devices. If racing days for a track are reduced by
18 agreement under subsection (2) of this section, those racing days so reduced may
19 be awarded by the authority to another racing association in order to ensure that
20 there will be no net reduction of racing days in the Commonwealth.

21 (5) The commission shall authorize a track to operate electronic gaming devices on
22 days and during hours requested by a track, with the days and hours of operation
23 specified by the track in its license application, and these days and hours may
24 include days during which the track is not conducting live racing.

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

27 (a) Has been convicted of a felony in this or any other jurisdiction, unless at

- 1 least five (5) years have elapsed from the date that the applicant was
2 discharged from probation, imprisonment, or parole, whichever is later;
- 3 (b) Has been convicted of any illegal gambling activity in this or any other
4 jurisdiction unless at least five (5) years have elapsed from the date that the
5 applicant was discharged from probation, imprisonment, or parole,
6 whichever is later;
- 7 (c) Has been found to have violated the provisions of this chapter or any
8 administrative regulation adopted hereunder, unless at least five (5) years
9 have passed since the violation;
- 10 (d) Is a vendor, employee, or agent of an electronic gaming device
11 manufacturer or supplier;
- 12 (e) Resides in the same household as an officer of the commission; or
- 13 (f) Has made a statement of material fact to the commission, knowing such
14 statement to be false, unless at least ten (10) years have passed since the
15 statement was made.
- 16 (7) (a) All new applications for limited casino licenses issued by the commission
17 shall furnish fingerprints from each principal for a national criminal
18 records check by the commission and the Federal Bureau of Investigation.
- 19 (b) Investigative assistance may be provided by the Department of Kentucky
20 State Police and the Administrative Office of the Courts.
- 21 (c) Fingerprints shall be accompanied by a signed authorization for the release
22 of the information by the Department of Kentucky State Police and the
23 Federal Bureau of Investigation.
- 24 (8) Applicant tracks under this section shall furnish all information, including:
- 25 (a) Financial data and documents;
- 26 (b) Certifications, consents, and waivers;
- 27 (c) Individual history forms; and

1 (3) A person under twenty-one (21) years of age shall not be permitted access to
2 areas of a horse racing track in which electronic gaming devices are operated.

3 (4) A gaming licensee shall limit the number of entrances to areas in which
4 gambling games are situated to facilitate compliance with this section.

5 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) (a) The commission shall determine the occupations related to casino gaming,
8 and to the manufacture and supply of gaming supplies and equipment, that
9 will require a license in accordance with this chapter.

10 (b) The commission shall establish the occupations through promulgation of
11 administrative regulations.

12 (c) An occupational license shall be valid for twelve (12) months from the date
13 it is issued.

14 (2) No individual shall be employed by a full or limited casino in an occupation for
15 which a license is required under this chapter or administrative regulations
16 promulgated thereunder, unless the individual possesses an occupational license
17 authorizing the employment.

18 (3) The commission may issue an occupational license to an applicant if:

19 (a) The applicant applies to the commission on a form furnished by the
20 commission, and the commission determines that the application is
21 complete and materially accurate;

22 (b) 1. The applicant provides fingerprints for a national criminal records
23 check by the commission and the Federal Bureau of Investigation.

24 2. Investigative assistance may be provided by the Department of
25 Kentucky State Police and the Administrative Office of the Courts.

26 3. Fingerprints shall be accompanied by a signed authorization for the
27 release of the information by the Department of Kentucky State Police

- 1 and the Federal Bureau of Investigation.
- 2 (c) The commission determines that the applicant is qualified to possess the
3 license for the occupation in which the applicant has sought employment;
- 4 (d) The applicant is at least twenty-one (21) years of age;
- 5 (e) The applicant is not an unauthorized alien as defined by 8 U.S.C. sec.
6 1324a(h)(3); and
- 7 (f) The license fee is paid to the commission at the time of application. The
8 license fee required under this section:
- 9 1. Shall be paid in the amount established by the commission through
10 promulgation of administrative regulations; and
- 11 2. Is nonrefundable unless the commission does not issue the requested
12 license.
- 13 (4) An application for an occupational license shall contain, at a minimum, the
14 following information:
- 15 (a) The name, residence, address, telephone number, Social Security number,
16 and date of birth of the applicant;
- 17 (b) A statement as to whether the applicant possesses or has possessed an
18 occupational license in Kentucky or in any other state or foreign country
19 authorizing the applicant to work in an occupation related to casino
20 gaming;
- 21 (c) A statement as to whether the applicant has ever had any occupational
22 license or other grant of authority referred to in paragraph (b) of this
23 subsection revoked, denied, or not renewed, together with a description of
24 the reasons for the loss of license or grant of authority;
- 25 (d) A statement as to whether the applicant has been indicted for or convicted
26 of a crime in Kentucky, in any other state, in a federal court, or in a foreign
27 country. If so, an applicant shall provide documentation detailing:

- 1 1. The charges;
- 2 2. Dates of charges;
- 3 3. The prosecuting authorities;
- 4 4. Disposition of the charges; and
- 5 5. Sentencing; and
- 6 (e) Any other information the commission may require.
- 7 (5) Applicants for or holders of occupational licenses shall report to the commission
8 concerning any changes in information required to be submitted in an
9 application within thirty (30) days after becoming aware of the circumstances
10 requiring them to make a report.
- 11 (6) The commission shall issue an occupational license within thirty (30) days of
12 receipt of a completed application accompanied by the required fee and the
13 fingerprint cards necessary to process a state and national criminal history
14 record check, and upon a determination that the applicant qualifies for the
15 license.
- 16 (7) The commission shall deny an occupational license if the applicant does not
17 qualify for the license.
- 18 (8) (a) The commission may issue a temporary occupational license if it has
19 received a completed application with the required fees and fingerprint
20 cards, has initially determined the application to be materially accurate, and
21 is unable to issue the license within thirty (30) days after receipt due to
22 circumstances that are not the fault of the applicant.
- 23 (b) A temporary occupational license shall be valid for a period of ninety (90)
24 days and shall not be renewed.
- 25 (c) If the commission determines the applicant is unqualified for an
26 occupational license upon or before the expiration of the applicant's
27 temporary occupational license, it shall issue a denial of the applicant's

1 license.

2 (9) An applicant working under the authority of a temporary occupational license
3 shall cease his or her employment upon receipt of written notice of license denial,
4 or upon expiration of the temporary license, whichever is earlier.

5 (10) All notices of license denial issued under this section shall be in writing, and:

6 (a) 1. Service thereof shall be accomplished in the manner provided for
7 service of process in civil actions; or

8 2. By certified mail, return receipt requested, to the address provided by
9 the applicant in the license application; and

10 (b) A copy of the denial notice shall be mailed by certified mail, return receipt
11 requested, to the applicant's employer or prospective employer.

12 (11) Unless an occupational license is suspended, expires, or is revoked, it may be
13 renewed annually upon:

14 (a) Payment of the license and renewal fee as promulgated by the commission
15 in administrative regulations; and

16 (b) A determination by the commission that the holder of the license is in
17 compliance with the provisions of this chapter.

18 (12) The commission may investigate the holder of an occupational license at any
19 time it determines that an investigation is necessary to ensure that the license
20 holder is in compliance with the provisions of this chapter.

21 (13) An applicant is disqualified from possessing an occupational license under this
22 chapter if he or she has been:

23 (a) Convicted of a felony in Kentucky, in any other state, or in a federal court;
24 or

25 (b) Convicted of any illegal gambling activity in Kentucky, in any other state, or
26 in a federal court; unless at least two (2) years have elapsed from the date
27 that the applicant was discharged from probation, imprisonment, or parole,

1 whichever was later.

2 (14) An applicant who has been found to have violated the provisions of this chapter
 3 or any administrative regulation adopted hereunder, is disqualified from
 4 possessing an occupational license under this chapter, unless at least two (2)
 5 years have passed since the violation.

6 (15) Notwithstanding subsection (13) of this section, an applicant may apply to the
 7 commission for a waiver of the disqualification. The commission may waive
 8 disqualification if the disqualifying offense is a felony but is not related to:

9 (a) Theft under KRS Chapter 514;

10 (b) Bribery under KRS Chapter 521;

11 (c) Perjury under KRS Chapter 523;

12 (d) Robbery under KRS Chapter 515;

13 (e) Gambling under KRS Chapter 528;

14 (f) Forgery under KRS Chapter 516;

15 (g) Offenses under KRS Chapters 517 and 506; or

16 (h) Identify theft under KRS 514.160 and 514.170.

17 (16) An applicant aggrieved by the commission's denial of a license application under
 18 this section may request administrative review in accordance with Section 21 of
 19 this Act.

20 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 21 READ AS FOLLOWS:

22 (1) The commission may initiate disciplinary action against applicants for licenses,
 23 license holders, and other persons determined to have violated provisions of this
 24 chapter or the administrative regulations promulgated under the authority of this
 25 chapter.

26 (2) Disciplinary actions available to the commission shall include:

27 (a) Administrative fines;

1 (b) Denial of license;

2 (c) Nonrenewal of license;

3 (d) Suspension or revocation of a license;

4 (e) Letters of reprimand; and

5 (f) Orders to cease and desist in conduct violating provisions of this chapter or
6 administrative regulations promulgated thereunder.

7 (3) Disciplinary action, including the amount of an administrative fine, shall be
8 based upon the violator's record of compliance or noncompliance with the
9 provisions of this chapter and administrative regulations, and upon the severity of
10 the offense with which the violator is charged.

11 (4) No administrative fine shall exceed fifty thousand dollars (\$50,000) for a single
12 offense.

13 (5) Notice of disciplinary action shall be in writing, and service thereof shall be
14 accomplished:

15 (a) In the manner provided for service of process in civil actions; or

16 (b) By certified mail, return receipt requested, to the address provided by the
17 applicant in its license application if the violator is an applicant or a license
18 holder.

19 (6) Administrative fines imposed under this section may be paid at any time after the
20 violator is notified of the amount of the fine and shall be paid:

21 (a) Within thirty (30) days after the commission enters a final order affirming
22 the fine; or

23 (b) Thirty (30) days after the final order is no longer the subject of a pending
24 proceeding for judicial review.

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

27 (1) Any applicant aggrieved by the commission's denial of a license, and any

1 applicant, license holder, or other person aggrieved by the imposition of
2 disciplinary action, may obtain administrative review of the denial or action by
3 filing a request for administrative review with the commission.

4 (2) The request for administrative review shall:

5 (a) Be in writing;

6 (b) Specify the grounds for challenging the commission's action; and

7 (c) Be delivered to the commission by certified mail or hand-delivery within
8 thirty (30) days after receipt of notice of the action by the aggrieved person.

9 (3) Administrative review shall be governed by the provisions of KRS Chapter 13B.

10 (4) Upon completion of administrative proceedings concerning a request for
11 administrative review, the commission shall enter a final order which shall
12 constitute its official action with respect to the matters underlying the request.

13 (5) A party aggrieved by the final order of the commission may obtain judicial review
14 of the order by filing a petition for judicial review in Circuit Court. The
15 provisions of KRS Chapter 13B shall apply to all petitions for judicial review.

16 (6) (a) The commission may summarily suspend a license or take other emergency
17 action as may be necessary if it determines that actions of persons regulated
18 under the provisions of this chapter constitute an immediate threat to public
19 safety or welfare.

20 (b) Emergency remedies imposed under this subsection may be imposed
21 without prior hearing, if written notice is delivered to the parties affected by
22 the commission's actions.

23 (c) Service of notice shall be accomplished in the manner provided for service
24 of process in civil actions.

25 (d) The provisions of KRS 13B.125 shall apply to emergency remedies imposed
26 by the commission.

27 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO

1 READ AS FOLLOWS:

2 *In accordance with 15 U.S.C. sec. 1172, the General Assembly hereby declares that:*

3 *(1) 15 U.S.C. sec. 1172 shall not apply to any electronic gaming device or other*
 4 *gambling device found in the Commonwealth where the transportation of such*
 5 *device is specifically authorized by, and done in compliance with, the provisions*
 6 *of this chapter or any other applicable Kentucky statute and any administrative*
 7 *regulation promulgated thereunder; and*

8 *(2) Any such device transported in compliance with state law and administrative*
 9 *regulations shall be exempt from the provisions of 15 U.S.C. sec. 1172.*

10 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 11 READ AS FOLLOWS:

12 *All shipments of electronic gaming devices to gaming licensees located in Kentucky,*
 13 *the registering, recording, and labeling of which have been duly made by the*
 14 *manufacturer, supplier, or dealer in accordance with 15 U.S.C. secs. 1173 and 1174,*
 15 *shall be deemed legal shipments in the Commonwealth.*

16 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 17 READ AS FOLLOWS:

18 *(1) The commission shall, through the promulgation of administrative regulations,*
 19 *define and limit:*

20 *(a) The gambling games and devices permitted for use in licensed casinos; and*

21 *(b) The method of operation of these games and devices.*

22 *(2) The gambling games and devices permitted for gaming operations shall be*
 23 *uniform for all gaming licensees.*

24 *(3) The payout of all electronic gaming devices shall be based upon a suitable range*
 25 *as determined by the gaming licensee.*

26 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
 27 READ AS FOLLOWS:

- 1 (1) The exclusion or ejection of certain persons from licensed casinos may be
2 necessary to effectively maintain the strict regulation of licensed gaming.
- 3 (2) (a) Each gaming licensee shall compile a list of persons who are to be excluded
4 or ejected from any licensed casino.
- 5 (b) The list shall include any person whose presence in the casino is determined
6 by the licensee to pose a threat to the interests of this state or to licensed
7 gaming, or both.
- 8 (c) These lists are to be filed annually with the commission or when a name is
9 added or deleted from a list.
- 10 (3) The commission shall promulgate administrative regulations regarding the
11 compilation of the lists required in subsection (2) of this section to guide gaming
12 licensees in determining what persons are to be placed on the lists. Gaming
13 licensees shall consider the following:
- 14 (a) Prior conviction of a crime that is a felony in this state, any other state, or
15 under the laws of the United States;
- 16 (b) Prior conviction of a crime that is a violation of the gaming laws of any
17 state;
- 18 (c) Violation of, or conspiracy to violate the provisions of, this chapter relating
19 to:
- 20 1. The failure to disclose an interest in a casino or racing association
21 gaming establishment for which the person is required to obtain a
22 license; or
- 23 2. Willful evasion of fees or taxes;
- 24 (d) Notorious or unsavory reputation that would adversely affect public
25 confidence and trust that the gaming industry is free from criminal or
26 corruptive elements; or
- 27 (e) A written order of a governmental agency which authorizes the exclusion or

- 1 *ejection of the person from a casino.*
- 2 *(4) Race, color, creed, national origin, ancestry, religion, or sex shall not be grounds*
3 *for placing the name of a person upon the list.*
- 4 *(5) The amount a person has legally won at a casino in this state, or any other state,*
5 *or any other country shall not be grounds for placing the name of a person upon*
6 *this list.*
- 7 *(6) Whenever the name and description of any person is placed on a list in*
8 *accordance with this section, the commission shall serve notice of this fact to a*
9 *person placed on the list by:*
- 10 *(a) Personal service; or*
11 *(b) Certified mail to the last known address of the person.*
- 12 *(7) Within thirty (30) days after service by mail or in person, the person named may*
13 *demand a hearing under KRS Chapter 13B and show cause why the person*
14 *should have his or her name removed from the list.*
- 15 *(8) If, upon completion of the hearing, a determination has been made that:*
- 16 *(a) Exclusion or ejection does not or should not apply to the person so listed,*
17 *the commission shall provide notice of the determination to gaming*
18 *licensees and to the person who requested the hearing; or*
- 19 *(b) Placing the person on the exclusion or ejection list was proper, the*
20 *commission shall enter in its minutes an order to that effect.*
- 21 *(9) The commission may promulgate administrative regulations to establish a*
22 *voluntary exclusion program. A voluntary exclusion program established under*
23 *this subsection shall require that:*
- 24 *(a) A person who participates in a voluntary exclusion program agrees to*
25 *refrain from entering a facility under the jurisdiction of the commission,*
26 *unless otherwise provided in administrative regulations promulgated by the*
27 *commission;*

1 **(b) The name of a person participating in the program shall be included on a**
2 **list of persons excluded from all facilities under the jurisdiction of the**
3 **commission;**

4 **(c) A person who participates in the program may not petition the commission**
5 **for readmittance to a facility under the jurisdiction of the commission,**
6 **except as otherwise provided in administrative regulations promulgated by**
7 **the commission;**

8 **(d) The list of persons entering the voluntary exclusion program and their**
9 **personal information shall be confidential and may only be disseminated by**
10 **the commission to the owner or operator of a facility under the jurisdiction**
11 **of the commission for purposes of enforcement and to other entities, upon**
12 **request by the participant and agreement by the commission;**

13 **(e) The owner of the facility under the jurisdiction of the commission shall**
14 **make all reasonable attempts as determined by the commission to cease all**
15 **direct marketing efforts to persons participating in the program; and**

16 **(f) An owner of a facility under the jurisdiction of the commission may not**
17 **cash the check of a person participating in the program or extend credit to**
18 **the person in any manner. However, the voluntary exclusion program shall**
19 **not preclude an owner from seeking payment of a debt accrued by a**
20 **participant before he or she entered the program.**

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

23 **(1) The commission shall promulgate administrative regulations to address**
24 **education and treatment programs for problem gamblers.**

25 **(2) The commission shall include funding for education and treatment programs for**
26 **problem gamblers in its biennial budget request.**

27 **(3) The Cabinet for Health and Family Services, Department for Mental Health and**

1 Mental Retardation Services, shall provide to the commission the technical
 2 expertise necessary to promulgate these administrative regulations.

3 (4) Administrative regulations promulgated under the authority of this section shall:

4 (a) Establish standards for the types of agencies, groups, organizations, and
 5 persons that will be eligible to provide treatment or education programs;

6 (b) Establish standards for the types of activities that will be eligible for
 7 funding;

8 (c) Establish standards for the appropriate documentation of past performance
 9 of agencies, groups, organizations, and persons and the activities that they
 10 have conducted;

11 (d) Set forth procedures for evaluation of requests submitted from the various
 12 agencies, groups, organizations, and persons that are seeking to provide
 13 services under this section; and

14 (e) Require providers of education and treatment programs to submit
 15 appropriate documentation demonstrating the effectiveness of the programs
 16 they provide.

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

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

21 (a) The result of a gambling game; or

22 (b) The amount or frequency of payment in a gambling game.

23 (2) It shall be a Class D felony if a person knowingly or intentionally does any of the
 24 following:

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

26 1. Projecting the outcome of a game;

27 2. Keeping track of playing cards;

- 1 3. Analyzing the probability of the occurrence of an event relating to a
2 gambling game; or
- 3 4. Analyzing the strategy for playing or betting to be used in the game,
4 except as permitted by the commission;
- 5 (b) Cheats at a gambling game;
- 6 (c) Manufactures, sells, or distributes any cards, chips, dice, game, or device
7 that is intended to be used to violate this section;
- 8 (d) Alters or misrepresents the outcome of a gambling game on which wagers
9 have been made after the outcome is made sure but before the outcome is
10 revealed to the players;
- 11 (e) Places a bet on the outcome of a gambling game after acquiring knowledge
12 that:
- 13 1. Is not available to all players; and
- 14 2. Concerns the outcome of the gambling game that is the subject of the
15 bet;
- 16 (f) Aids a person in acquiring the knowledge described in paragraph (e) of this
17 subsection for the purpose of placing a bet contingent on the outcome of a
18 gambling game;
- 19 (g) Claims, collects, takes, or attempts to claim, collect, or take money or
20 anything of value in or from a gambling game by cheating;
- 21 (h) Uses or possesses counterfeit chips or tokens used in a gambling game;
- 22 (i) Possesses a key or device designed for:
- 23 1. Opening, entering, or affecting the operation of a gambling game,
24 drop box, or an electronic or a mechanical device connected with a
25 gambling game; or
- 26 2. Removing coins, tokens, chips, or other contents of a gambling game;
27 or

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

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

5 (4) A person shall be guilty of a Class A misdemeanor if he or she knowingly or
 6 intentionally does any of the following:

7 (a) Makes a false statement on an occupational, manufacturer's, supplier's, or
 8 gaming license application;

9 (b) Permits a person less than twenty-one (21) years of age to make a wager on
 10 a gambling game at a casino or track; or

11 (c) Being less than twenty one (21) years of age, enters or attempts to enter a
 12 casino or a facility at a horse racing track where electronic gaming devices
 13 are operated.

14 ➔Section 28. KRS 15.380 is amended to read as follows:

15 (1) The following officers employed or appointed as full-time, part-time, or auxiliary
 16 officers, whether paid or unpaid, shall be certified:

17 (a) Department of Kentucky State Police officers, but for the commissioner of the
 18 Department of Kentucky State Police;

19 (b) City, county, and urban-county police officers;

20 (c) Court security officers and deputy sheriffs, except those identified in KRS
 21 70.045 and 70.263(3);

22 (d) State or public university police officers appointed pursuant to KRS 164.950;

23 (e) School resource officers as defined in KRS 158.441 and employed or
 24 appointed under KRS 158.4414;

25 (f) Airport safety and security officers appointed under KRS 183.880;

26 (g) Department of Alcoholic Beverage Control investigators appointed under
 27 KRS 241.090;

- 1 (h) Division of Insurance Fraud Investigation investigators appointed under KRS
2 304.47-040;
- 3 (i) Fire investigators appointed or employed under KRS 95A.100 or 227.220;f
4 ~~and~~
- 5 (j) County detectives appointed in accordance with KRS 69.360 after July 1,
6 2019; and
- 7 (k) Gaming commission employees as described in subsection (5) of Section 4
8 of this Act.
- 9 (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state
10 peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be
11 incorporated by the Personnel Cabinet for job specifications.
- 12 (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for
13 all peace officers possessing arrest powers who have specialized law enforcement
14 responsibilities shall be the responsibility of the employing agency.
- 15 (4) The following officers may, upon request of the employing agency, be certified by
16 the council:
- 17 (a) Deputy coroners;
- 18 (b) Deputy constables;
- 19 (c) Deputy jailers;
- 20 (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
- 21 (e) Officers appointed under KRS 61.360;
- 22 (f) Officers appointed under KRS 61.902, except those who are school resource
23 officers as defined in KRS 158.441 and who shall be certified under
24 subsection (1)(e) of this section;
- 25 (g) Private security officers;
- 26 (h) Employees of a correctional services division created pursuant to KRS
27 67A.028 and employees of a metropolitan correctional services department

- 1 created pursuant to KRS 67B.010 to 67B.080; and
- 2 (i) Investigators employed by the Department of Charitable Gaming in
- 3 accordance with KRS 238.510; and
- 4 (j) Commonwealth detectives employed under KRS 69.110 and county detectives
- 5 employed under KRS 69.360.
- 6 (5) The following officers shall be exempted from the certification requirements but
- 7 may upon their request be certified by the council:
- 8 (a) Sheriffs;
- 9 (b) Coroners;
- 10 (c) Constables;
- 11 (d) Jailers;
- 12 (e) Kentucky Horse Racing Commission security officers employed under KRS
- 13 230.240; and
- 14 (f) Commissioner of the State Police.
- 15 (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.
- 16 (7) Local alcoholic beverage control investigators appointed under KRS Chapter 241
- 17 on or after April 1, 2019, shall be certified by the council if all minimum standards
- 18 set forth in KRS 15.380 to 15.404 have been met. Local alcoholic beverage control
- 19 investigators appointed under KRS Chapter 241 before April 1, 2019, shall be
- 20 exempt from this requirement.

21 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO

22 READ AS FOLLOWS:

23 **(1) A wagering tax is imposed on the gross gaming revenue received from gaming**

24 **operations at all full and limited casinos at a rate of twenty-one percent (21%) of**

25 **gross gaming revenue as defined in Section 2 of this Act. This wagering tax shall**

26 **be paid by the holder of the casino license.**

27 **(2) A tax is imposed on admissions to a full casino. This tax shall be imposed at a**

1 rate of three dollars (\$3) for each person admitted to the casino each day. The
2 admissions tax shall be paid:

3 (a) By the holder of the casino license to which the tax applies:

4 (b) To the department;

5 (c) In addition to the wagering tax imposed pursuant to subsection (1) of this
6 section; and

7 (d) May be passed on to casino patrons by an admissions fee.

8 (3) (a) Licensees required to pay wagering and admissions taxes shall remit
9 payment to the Department of Revenue on or before the twentieth day of the
10 month following each calendar month for the preceding month's gross
11 gaming revenue and admissions.

12 (b) Payment shall be accompanied by a return form which the commission
13 shall establish through the promulgation of administrative regulations.

14 (c) The return form shall report, at a minimum:

15 1. The number of daily admissions and the amount of admissions tax
16 due;

17 2. Total handle;

18 3. Prizes paid;

19 4. Gross gaming revenue; and

20 5. Wagering taxes due.

21 (4) Wagering and admissions taxes due and payable in accordance with this section
22 shall be paid via electronic funds transfer. Licensees required to pay wagering
23 and admissions taxes shall provide the commission with all protocol
24 documentation and electronic funds transfer data necessary to facilitate the
25 timely transfer of funds.

26 (5) The department shall enforce the provisions of and collect the tax and penalties
27 imposed by this section, and in doing so it shall have the general powers and

1 duties granted it in KRS Chapters 131 and 135, including the power to enforce,
 2 by an action in the Franklin Circuit Court, the collection of the tax and penalties
 3 imposed by this section.

4 (6) The commission may suspend, revoke, or decline to renew a license upon the
 5 licensee's failure to timely submit payment of wagering and admissions taxes due
 6 under this section.

7 (7) Wagering taxes received by the department shall be deposited into the state's
 8 general fund.

9 (8) Admissions taxes received by the department shall be allocated and distributed as
 10 follows:

11 (a) One-third (1/3) of admissions taxes received from each casino shall be paid
 12 by the department to the corresponding authorizing county or counties for
 13 each full casino to be distributed as agreed to by the participating counties;
 14 and

15 (b) Two-thirds (2/3) of admissions taxes received from each casino shall be paid
 16 to the state's general fund.

17 ➔Section 30. KRS 243.500 is amended to read as follows:

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

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

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

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

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

27 (b) Two (2) misdemeanors directly or indirectly attributable to the use of

1 alcoholic beverages within two (2) consecutive years; or

2 (c) Any felony.

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

7 (5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600,
8 and 243.610, or granted under any Act of Congress relative to the regulation of the
9 manufacture, sale, and transportation of alcoholic beverages.

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

15 This subsection shall not apply to:

16 (a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;

17 (b) The operation of a pari-mutuel system for betting, where authorized by law;

18 (c) The conduct of charitable gaming by a charitable organization licensed or
19 permitted under KRS Chapter 238; ~~{-or}~~

20 (d) Special temporary raffles of alcoholic beverages under KRS 243.036; or

21 (e) *The conduct and operation of limited or full casino gaming or the*
22 *possession of electronic gaming devices or supplies or equipment used in*
23 *the conduct of casino gaming authorized under KRS Chapter 239.*

24 (7) Conviction of the licensee, the licensee's agents, servants, or employees for:

25 (a) The trafficking or possession upon the licensed premises of controlled or
26 illegal substances described in KRS Chapter 218A, including synthetic drugs;

27 (b) Knowingly permitting the trafficking or possession by patrons upon the

1 licensed premises of controlled or illegal substances described in KRS
2 Chapter 218A, including synthetic drugs; or

3 (c) Knowingly receiving stolen property upon the licensed premises.

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

5 ➔Section 31. KRS 372.005 is amended to read as follows:

6 The terms and provisions of this chapter do not apply to betting, gaming, or wagering that
7 has been authorized, permitted, or legalized, including, but not limited to, all activities
8 and transactions permitted under KRS Chapters 154A, 230,~~and~~ 238, **and 239**.

9 ➔Section 32. KRS 525.090 is amended to read as follows:

10 (1) A person is guilty of loitering when he **or she**:

11 (a) Loiters or remains in a public place for the purpose of gambling with cards,
12 dice or other gambling paraphernalia, except that the provisions of this section
13 shall not apply if the person is participating in charitable gaming defined by
14 KRS 238.505 **or engaged in casino gaming licensed under KRS Chapter**
15 **239**; or

16 (b) Loiters or remains in a public place for the purpose of unlawfully using a
17 controlled substance; or

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

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

26 (2) Loitering is a violation.

27 ➔Section 33. KRS 528.010 is amended to read as follows:

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

- 2 (1) "Advancing gambling activity" -- A person "advances gambling activity" when~~[-]~~
3 **not licensed under KRS Chapter 239, or** acting other than as a player, he **or she**
4 engages in conduct that materially aids any form of gambling activity. The conduct
5 shall include, but is not limited to, conduct directed toward the establishment of the
6 particular game, contest, scheme, device, or activity involved; toward the
7 acquisition or maintenance of premises, paraphernalia, equipment, or apparatus
8 therefor; toward the solicitation or inducement of persons to participate therein;
9 toward the actual conduct of the playing phases thereof; toward the arrangement of
10 any of its financial or recording phases or toward any other phase of its operation. A
11 person who gambles at a social game of chance on equal terms with other
12 participants does not otherwise advance gambling activity by performing acts,
13 without remuneration or fee, directed toward the arrangement or facilitation of the
14 game as inviting persons to play, permitting the use of premises therefor and
15 supplying equipment used therein;
- 16 (2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets
17 upon the outcome of future contingent events from members of the public as a
18 business;
- 19 (3) "Charitable gaming" means games of chance conducted by charitable organizations
20 licensed and regulated under the provisions of KRS Chapter 238;
- 21 (4) (a) "Gambling" means staking or risking something of value upon the outcome of
22 a contest, game, gaming scheme, or gaming device which is based upon an
23 element of chance, in accord with an agreement or understanding that
24 someone will receive something of value in the event of a certain outcome. A
25 contest or game in which eligibility to participate is determined by chance and
26 the ultimate winner is determined by skill shall not be considered to be
27 gambling.

1 (b) Gambling shall not mean charitable gaming which is licensed and regulated
2 under the provisions of KRS Chapter 238 or casino gaming licensed under
3 KRS Chapter 239;

4 (5) "Gambling device" means:

5 (a) Any so-called slot machine or any other machine or mechanical device an
6 essential part of which is a drum or reel with insignia thereon, and which
7 when operated may deliver, as a result of the application of an element of
8 chance, any money or property, or by the operation of which a person may
9 become entitled to receive, as the result of the application of an element of
10 chance, any money or property;

11 (b) Any mechanical or electronic device permanently located in a business
12 establishment, including a private club, that is offered or made available to a
13 person to play or participate in a simulated gambling program in return for
14 direct or indirect consideration, including but not limited to consideration paid
15 for Internet access or computer time, or a sweepstakes entry, which when
16 operated may deliver as a result of the application of an element of chance,
17 any money or property, or by the operation of which a person may become
18 entitled to receive, as the result of the application of an element of chance, any
19 money or property; or

20 (c) Any other machine or any mechanical or other device, including but not
21 limited to roulette wheels, gambling tables and similar devices, designed and
22 manufactured primarily for use in connection with gambling and which when
23 operated may deliver, as the result of the application of an element of chance,
24 any money or property, or by the operation of which a person may become
25 entitled to receive, as the result of the application of an element of chance, any
26 money or property;

27 (d) But, the following shall not be considered gambling devices within this

1 definition:

- 2 1. Devices dispensing or selling combination or French pools on licensed,
3 regular racetracks during races on said tracks;
- 4 2. Devices dispensing or selling combination or French pools on historical
5 races at licensed, regular racetracks as lawfully authorized by the
6 Kentucky Horse Racing Commission;
- 7 3. Electro-mechanical pinball machines specially designed, constructed, set
8 up, and kept to be played for amusement only.
 - 9 a. Any pinball machine shall be made to receive and react only to the
10 deposit of coins during the course of a game.
 - 11 b. The ultimate and only award given directly or indirectly to any
12 player for the attainment of a winning score or combination on any
13 pinball machine shall be the right to play one (1) or more
14 additional games immediately on the same device at no further
15 cost.
 - 16 c. The maximum number of free games that can be won, registered,
17 or accumulated at one (1) time in operation of any pinball machine
18 shall not exceed thirty (30) free games.
 - 19 d. Any pinball machine shall be made to discharge accumulated free
20 games only by reactivating the playing mechanism once for each
21 game released.
 - 22 e. Any pinball machine shall be made and kept with no meter or
23 system to preserve a record of free games played, awarded, or
24 discharged.
 - 25 f. Nonetheless, a pinball machine shall be a gambling device if a
26 person gives or promises to give money, tokens, merchandise,
27 premiums, or property of any kind for scores, combinations, or free

1 games obtained in playing the pinball machine in which the person
2 has an interest as owner, operator, keeper, or otherwise;~~[-or]~~

3 4. Devices used in the conduct of charitable gaming; ***or***

4 **5. *Devices used in casino gaming and licensed under KRS Chapter 239.***

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

6 (a) A gambling scheme in which:

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

11 2. The ultimate winner is to be determined by a drawing or by some other
12 method based upon the element of chance; and

13 3. The holders of the winning chances are to receive something of value;
14 and

15 (b) A gift enterprise or referral sales plan which meets the elements of a lottery
16 listed in paragraph (a) of this subsection is to be considered a lottery under
17 this chapter;

18 (7) "Mutuel" or "the numbers games" means a form of lottery in which the winning
19 chances or plays are not determined upon the basis of a drawing or other act on the
20 part of persons conducting or connected with the scheme, but upon the basis of the
21 outcome or outcomes of a future contingent event or events otherwise unrelated to
22 the particular scheme;

23 (8) "Player" means a person who engages in any form of gambling solely as a
24 contestant or bettor, without receiving or becoming entitled to receive any profit
25 therefrom other than personal gambling winnings, and without otherwise rendering
26 any material assistance to the establishment, conduct, or operation of the particular
27 gambling activity. A person who engages in "bookmaking" as defined in subsection

1 (2) of this section is not a "player." The status of a "player" shall be a defense to any
2 prosecution under this chapter;

3 (9) "Profiting from gambling activity" -- A person "profits from gambling activity"
4 when, other than as a player, he accepts or receives or agrees to accept or receive
5 money or other property pursuant to an agreement or understanding with any person
6 whereby he participates or is to participate in the proceeds of gambling activity;

7 (10) "Simulated gambling program" means any method intended to be used by a person
8 playing, participating, or interacting with an electronic device that may, through the
9 application of an element of chance, either deliver money or property or an
10 entitlement to receive money or property; and

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

16 ➔Section 34. KRS 528.020 is amended to read as follows:

17 (1) A person is guilty of promoting gambling in the first degree when he or she
18 knowingly advances or profits from unlawful gambling activity by:

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

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

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

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

27 (c) Setting up and operating a gambling device without having the required

1 license issued under KRS Chapter 239 and administrative regulations
2 promulgated in accordance with that chapter.

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

4 ➔Section 35. KRS 528.070 is amended to read as follows:

5 (1) A person is guilty of permitting gambling when, having possession or control of
6 premises which he or she knows are being used to advance gambling activity
7 unlicensed under KRS Chapter 239, he or she fails to halt or abate or attempt to
8 halt or abate such use within a reasonable period of time.

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

10 ➔Section 36. KRS 528.080 is amended to read as follows:

11 (1) A person is guilty of possession of a gambling device when, with knowledge of the
12 character thereof, he or she manufactures, sells, transports, places or possesses a
13 gambling device without the appropriate license required under KRS Chapter
14 239, or conducts or negotiates any transaction affecting or designed to affect
15 ownership, custody or use of any gambling device, believing that it is to be used in
16 the advancement of unlawful gambling activity.

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

18 ➔Section 37. KRS 528.100 is amended to read as follows:

19 Any gambling device or gambling record possessed or used in violation of this chapter is
20 forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except
21 that the provisions of this section shall not apply to charitable gaming activity as defined
22 by KRS 528.010(3) or to casino gaming authorized under KRS Chapter 239.