AN ACT relating to wagering and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) (a) There is hereby established in the State Treasury a restricted account to be known as the sports wagering administration fund. The fund shall consist of moneys received from the moneys collected under Sections 9, 10, and 13 of this Act and state appropriations.

(b) 1. Amounts deposited in the fund shall be used for administrative expenses relating to or associated with the purposes of sports wagering and shall be disbursed by the Finance and Administration Cabinet upon the warrant of the Public Protection Cabinet.

2. The remaining funds shall be deposited in the Kentucky permanent pension fund established in KRS 42.205.

3. Any interest accruing to the fund shall become a part of the fund and shall not lapse.

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

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

➔Section 2. KRS 230.210 is amended to read as follows:

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

(1) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the racing commission, and may place a pari-mutuel wager through that account that is permitted by law;

(2) "Advance deposit account wagering licensee" means a person or entity licensed by the racing commission to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts;

(3) "Amateur youth sporting event" means any sporting event in which an individual:

(a) Shall be less than eighteen (18) years of age to participate; and

(b) Is prohibited, as a condition of participating in the sporting event, from receiving direct or indirect compensation for the use of the individual's athletic skill in any manner with respect to the sport in which the particular sporting event is conducted;

(4) ~~[(3)]~~ "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;

(5) ~~[(4)]~~ "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(6) ~~[(5)]~~ "Association" means any person licensed by the Kentucky Horse Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;

(7) "Geofence" means a virtual geographic boundary defined by Global Positioning System (GPS) or Radio Frequency Identification (RFID) technology;

(8) "Gross revenue" means the total amount of bets collected for sports wagering by a licensed facility for sports wagering from sports wagering participants;

(9) ~~[(6)]~~ "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(10) ~~[(7)]~~ "Horse race meeting" means horse racing run at an association licensed and

regulated by the Kentucky Horse Racing Commission, and may include Thoroughbred, harness, Appaloosa, Arabian, paint, and quarter horse racing;

(11) ~~[(8)]~~ "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(12) ~~[(9)]~~ "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(13) ~~[(10)]~~ "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(14) ~~[(11)]~~ "Kentucky quarter horse, paint horse, Appaloosa, and Arabian purse fund" means a purse fund established to receive funds as specified in KRS 230.3771 for purse programs established in KRS 230.446 to supplement purses for quarter horse, paint horse, Appaloosa, and Arabian horse races. The purse program shall be administered by the Kentucky Horse Racing Commission;

(15) ~~[(12)]~~ "Kentucky resident" means:

(a) An individual domiciled within this state;

(b) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the calendar year in this state; or

(c) An individual who lists a Kentucky address as his or her principal place of residence when applying for an account to participate in advance deposit account wagering;

(16) "Licensed facility for sports wagering" means the designated area to conduct sports wagering for a track licensed to conduct sports wagering pursuant to Section 9 of this Act;

(17) ~~[(13)]~~ "Licensed premises" means a track or simulcast facility licensed by the racing commission under this chapter;

(18) ~~[(14)]~~ "Paint horse" means a horse registered with the American Paint Horse Association of Fort Worth, Texas;

(19) ~~[(15)]~~ "Pari-mutuel wagering," "pari-mutuel system of wagering," or "mutuel wagering" each means any method of wagering previously or hereafter approved by the racing commission in which one (1) or more patrons wager on a horse race or races, whether live, simulcast, or previously run. Wagers shall be placed in one (1) or more wagering pools, and wagers on different races or sets of races may be pooled together. Patrons may establish odds or payouts, and winning patrons share in amounts wagered including any carryover amounts, plus any amounts provided by an association less any deductions required, as approved by the racing commission and permitted by law. Pools may be paid out incrementally over time as approved by the racing commission;

(20) "Person" means an individual, a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity;

(21) ~~[(16)]~~ "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:

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

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

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

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

organization;

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

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

(22) ~~[(17)]~~ "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(23) ~~[(18)]~~ "Racing commission" means the Kentucky Horse Racing Commission;

(24) ~~[(19)]~~ "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;

(25) ~~[(20)]~~ "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast live racing and conduct pari-mutuel wagering on live racing;

(26) ~~[(21)]~~ "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(27) "Sporting event" means an event at which two (2) or more persons participate in athletic contests, or an event that takes place in relation to athletic contests as approved by the racing commission but shall not include horse racing or amateur youth sports or athletic events in which the majority of participants are under the

age of eighteen (18);

(28) "Sports governing body" means the organization, league, or association that oversees a sport, prescribes final rules, and enforces codes of conduct with respect to such sport and participants therein;

(29) "Sports wagering" means the wagering conducted under this chapter on sporting events or portions of sporting events, or on the individual performance statistics of athletes in a sporting event or combination of sporting events in conformance with federal law and as authorized by the racing commission pursuant to this chapter;

(30) "Sports wagering device" means a mechanical, electrical, or computerized contrivance, terminal, device, apparatus, software, piece of equipment, or supply approved by the racing commission for conducting sports wagering under this chapter. This term includes a personal computer, mobile device, or other device used in connection with sports wagering not conducted at a licensed facility for sports wagering;

(31) "Sports wagering service provider" or "service provider" means a person authorized to conduct or manage sports wagering through an agreement with a track and provide these services through a website or mobile interface approved by the racing commission, or both;

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

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

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

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

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

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

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

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

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

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

(2) Sports wagering shall not be offered in this state except by a track, as defined by Section 2 of this Act, that is licensed under this chapter by the racing commission. A track that holds a license to operate sports wagering may contract with sports wagering service providers to conduct or manage sports wagering

operations as authorized by this chapter. Sports wagering may be provided through a licensed facility for sports wagering or online through a website or mobile application. The licensed facility for sports wagering or a sports wagering service provider may provide sports wagering through a website or mobile interface as approved by the racing commission. The racing commission may provide temporary licenses to licensed facilities for sports wagering or sports wagering service providers, if the commission deems that the information submitted by them is sufficient to determine the applicant's suitability. The racing commission shall promulgate administrative regulations to establish the suitability for temporary and ordinary license applications for licensed facilities for sports wagering, sports wagering service providers, and any related parties.

(3) Sports wagering licensees and service providers that accept wagers online via websites and mobile applications shall impose the following requirements:

(a) Prior to placing a wager online via websites or mobile applications operated by either a sports wagering licensee or a service provider, a patron shall register the patron's sports wagering account with the operating sports wagering licensee or service provider:

1. In person at a licensed facility for sports wagering for any registration attempted on or before twelve (12) months after the effective date of this Act; and

2. Either in person at a licensed facility for sports wagering or remotely through the service provider's website or mobile application for any registration attempted later than twelve (12) months after the effective date of this Act;

(b) 1. The registration process shall include attestation that the patron meets the requirements to place a wager with a sports wagering licensee or service provider in this state.

2. Prior to verification of a patron's identity, a sports wagering licensee or service provider shall not allow the patron to engage in sports wagering, make a deposit, or process a withdrawal via the patron's sports wagering account.

3. A sports wagering licensee or service provider shall implement commercially and technologically reasonable procedures to prevent access to sports wagering by any person under the age of eighteen (18) at:

a. A licensed facility; and

b. Online via website or mobile application.

4. A sports wagering licensee or service provider may use information obtained from third parties to verify that a person is authorized to open an account, place wagers, and make deposits and withdrawals;

(c) A sports wagering licensee or service provider shall adopt an account registration policy to ensure that all patrons are authorized to place a wager with a sports wagering licensee or service provider within the Commonwealth of Kentucky. This policy shall include, without limitation, a mechanism by which to:

1. Verify the name and age of the patron;

2. Verify that the patron is not prohibited from placing a wager; and

3. Obtain the following information:

a. A physical address other than a post office box;

b. A phone number;

c. A unique user name; and

d. An e-mail account;

(d) A sports wagering licensee or service provider shall use all commercially and technologically reasonable means to ensure that each patron is limited

to one (1) account with that service provider in the Commonwealth, but nothing in this paragraph restricts a patron from holding other sports wagering accounts in other jurisdictions;

(e) A sports wagering licensee or service provider, in addition to complying with state and federal law pertaining to the protection of the private, personal information of patrons, shall use all other commercially and technologically reasonable means to protect this information consistent with industry standards;

(f) A sports wagering licensee or service provider shall use all commercially and technologically reasonable means to verify the identity of the patron making a deposit or withdrawal;

(g) A sports wagering licensee or service provider shall utilize geolocation or geofencing technology to ensure that wagers are only accepted from patrons who are physically located in the Commonwealth. A sports wagering licensee or service provider shall maintain in this state its servers used to transmit information for purposes of accepting or paying out wagers on a sporting event placed by patrons in this state;

(h) A patron may fund the patron's account using any acceptable form of payment or advance deposit method, which shall include the use of cash, cash equivalents, credit cards, debit cards, automated clearing house, other electronic methods, and any other form of payment authorized by the racing commission; and

(i) The racing commission may enter into agreements with other jurisdictions or entities to facilitate, administer, and regulate multi-jurisdictional sports betting by sports betting operators to the extent that entering into the agreement is consistent with state and federal laws and the sports betting agreement is conducted only in the United States.

(4) A track may contract with no more than three (3) service providers at a time to conduct and manage services and technology which support the operation of sports betting both on the track and online via websites and mobile applications. The website or mobile application used to offer sports betting shall be offered only under the same brand as the track or that of the service provider contracted with the track, or both.

(5) A track or service provider through an agreement with a licensed track shall not offer sports wagering until the racing commission has issued a sports wagering license to the track, except for temporary licenses authorized under Section 10 of this Act.

(6) A track licensed under Section 9 of this Act may offer sports wagering at facilities specified under the definition of "track" in Section 2 of this Act.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Sporting events that may be wagered upon include but are not limited to:

(a) Professional sporting events;

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

(c) Amateur sporting events;

(d) International sporting events, including but not limited to the Olympics and World Cup Soccer;

(e) Electronic sports, e-sports, and competitive video game events; and

(f) Any other event authorized by the racing commission.

(2) (a) A sports governing body may submit a request to the racing commission to restrict, limit, or exclude a certain type, form, or category of sports wagering with respect to covered sporting events of that body, if the sport's governing

body believes that this type, form, or category of sports wagering with respect to covered sporting events of that body may undermine the integrity or perceived integrity of that body or covered sporting events of that body. The sport's governing body shall provide the racing commission with notice of this request in the form and manner required by the racing commission.

(b) The racing commission shall request comment from tracks and service providers on all requests made under paragraph (a) of this subsection. After giving due consideration to all comments received, the racing commission shall grant the request if the requesting body demonstrates good cause that this type, form, or category of sports wagering is likely to undermine the integrity or perceived integrity of the sport's governing body or covered sporting events of that body.

(c) The racing commission shall respond to a request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, no later than seven (7) days after the request is made. If the racing commission determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the racing commission may provisionally grant the request of the sport's governing body until the racing commission makes a final determination as to whether the requestor has demonstrated good cause. Absent this provisional grant by the racing commission, tracks and service providers may continue to offer sports wagering on covered sporting events that are the subject of the request during the pendency of the racing commission's consideration of the applicable request.

➔Section 5. KRS 230.215 is amended to read as follows:

(1) ***(a)*** It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries

in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the horse breeding industry within the Commonwealth and to encourage the improvement of the breeds of horses.

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

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

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

(2) ***(a)*** It is hereby declared the purpose and intent of this chapter in the interest of the public health, safety, and welfare, to vest in the racing commission forceful control of horse racing in the Commonwealth with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breeds of horses in the Commonwealth, to regulate and maintain horse racing at horse race

meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled horse racing practices, and to regulate and maintain horse racing at race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of horse racing in the Commonwealth.

(b) In addition, it is hereby declared the purpose and intent of this chapter to vest in the racing commission exclusive jurisdiction over sports wagering in the Commonwealth, with plenary power to promulgate administrative regulations prescribing conditions under which all sports wagering is to be conducted.

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

➔Section 6. KRS 230.225 is amended to read as follows:

(1) The Kentucky Horse Racing Commission is created as an independent agency of state government to regulate the conduct of horse racing and pari-mutuel wagering on horse racing, ***sports wagering,*** and related activities within the Commonwealth of Kentucky. The racing commission shall be attached to the Public Protection Cabinet for administrative purposes.

(2) (a) The Kentucky Horse Racing Commission shall consist of fifteen (15) members appointed by the Governor, with the secretaries of the Public

Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic Development Cabinet, or their designees, serving as ex officio nonvoting members.

(b) Two (2) members shall have no financial interest in the business or industry regulated.

(c) The members of the racing commission shall be appointed to serve for a term of four (4) years, except the initial terms shall be staggered as follows:

1. Five (5) members shall serve for a term of four (4) years;

2. Five (5) members shall serve for a term of three (3) years; and

3. Five (5) members shall serve for a term of two (2) years.

(d) Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.

(e) In making appointments, the Governor may consider members broadly representative of the Thoroughbred industry and members broadly representative of the standardbred, quarter horse, Appaloosa, or Arabian industries. The Governor may also consider recommendations from the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of the Horsemen's Benevolent and Protective Association, the Kentucky Harness Horsemen's Association, and other interested organizations.

(3) (a) Members of the racing commission shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions consistent with the reimbursement policy for state employees established by KRS 45.101 and administrative regulations promulgated thereunder.

(b) The Governor shall appoint one (1) member of the racing commission to serve as its chairperson who shall serve at the pleasure of the Governor.

(c) The Governor shall further designate a second member to serve as vice chair

with authority to act in the absence of the chairperson.

(d) Before entering upon the discharge of their duties, all members of the Kentucky Horse Racing Commission shall take the constitutional oath of office.

(4) (a) The racing commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices.

(b) The racing commission may hold meetings at any of its offices or at any other place when the convenience of the racing commission requires.

(c) All meetings of the racing commission shall be open and public, and all persons shall be permitted to attend meetings.

(d) A majority of the voting members of the racing commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

(5) Except as otherwise provided, the racing commission shall be responsible for the following:

(a) Developing and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers;

(b) Developing programs and procedures that will aggressively fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;

(c) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;

(d) Designing and implementing programs that strengthen the ties between Kentucky's horse industry and the state's universities, with the goal of significantly increasing the economic impact of the horse industry on Kentucky's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues;┼

~~and]~~

(e) Developing and supporting programs which ensure that Kentucky remains in the forefront of equine research**;**

(f) Developing monitoring programs to ensure the highest integrity of sporting events and sports wagering; and

(g) Developing a program to share wagering information with sports' governing bodies upon which sports wagering may be conducted. The program shall be designed to assist the racing commission in determining potential problems or questionable activity and provide reports to sports' governing bodies effectively.

➔Section 7. KRS 230.240 is amended to read as follows:

(1) ***(a)*** In addition to the employees referred to in KRS 230.230, the executive director of the racing commission may employ, dismiss, or take other personnel action and determine the reasonable compensation of stewards, supervisors of mutuels, ***supervisors of sports wagering,*** veterinarians, inspectors, accountants, security officers, and other employees deemed by the executive director to be essential at or in connection with any horse race meeting and in the best interest of racing***, or those deemed by the executive director to be integral to the conduct of sports wagering***.

(b) Three (3) Thoroughbred stewards shall be employed at each Thoroughbred race meeting ***as follows:***~~[.]~~

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

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

(c) Three (3) standardbred judges shall be employed at each standardbred race

meeting ***as follows:*** ~~[.]~~

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

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

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

(e) The racing commission, for the purpose of maintaining integrity and honesty in racing, shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the racing commission shall be responsible for seeing that racing officials employed under the provisions of this section have adequate training to perform their duties in a competent manner.

(2) ***(a)*** The racing commission shall promulgate administrative regulations for effectively preventing the use of improper devices ***at race meetings or in the conduct of sports wagering***, and restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race.

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

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

(3) ***(a)*** The expenses of the commission and the compensation of all employees referred to in this section shall be paid by the licensee conducting a horse race meeting or pari-mutuel wagering on live or historic horse racing***, provided that the expenses of the commission and the compensation of employees under this section related to administering the system of sports wagering shall be paid by the sports wagering administration fund established in Section 1 of this Act***.

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

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

(4) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay expenses and compensation as provided in this section and as may be actually and

reasonably incurred.

➔Section 8. KRS 230.260 is amended to read as follows:

The racing commission, in the interest of breeding or the improvement of breeds of horses ***and in the interest of ensuring the integrity of authorized sports wagering***, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including but without limitation the following:

(1) The racing commission is vested with jurisdiction and supervision over all horse race meetings ***and sports wagering*** in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that ***the person's*** ~~[his]~~ presence on association grounds may, in the opinion of the racing commission, ***negatively*** reflect on the honesty and integrity of horse racing***, or on sporting events upon which sports wagers may be placed,*** or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

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

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

(b) Reporting requirements to include quarterly reporting on:

1. The amount wagered on Kentucky races; and

2. The total amount wagered by Kentuckians;

(3) The racing commission is vested with jurisdiction over any totalisator company that provides totalisator services to a racing association located in the Commonwealth. A totalisator company under the jurisdiction of the racing commission shall be licensed by the racing commission, regardless of whether a totalisator company is located in the Commonwealth or operates from a location or locations outside of the Commonwealth, and the racing commission may impose a license fee on a totalisator company. The racing commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of totalisator companies, and a fee schedule for applications for licensure;

(4) The racing commission is vested with jurisdiction over any manufacturer, wholesaler, distributor, or vendor of any equine drug, medication, therapeutic substance, or metabolic derivative which is purchased by or delivered to a licensee or other person participating in Kentucky horse racing by means of the Internet, mail delivery, in-person delivery, or other means;

(5) The racing commission is vested with jurisdiction over any horse training center or facility in the Commonwealth that records official timed workouts for publication;

(6) The racing commission may require an applicant for a license under subsections (2) and (3) of this section to submit to a background check of the applicant, or of any individual or organization associated with the applicant. An applicant shall be required to reimburse the racing commission for the cost of any background check conducted;

(7) The racing commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee, or any person owning a horse or performing services regulated by this chapter on a horse registered to participate in a breeders incentive fund under the

jurisdiction of the racing commission;

(8) The racing commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;

(9) Applications for licenses shall be made in the form, in the manner, and contain information as the racing commission may, by administrative regulation, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the racing commission;

(10) The racing commission shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(11) The racing commission may refuse to issue or renew a license, revoke or suspend a license, impose probationary conditions on a license, issue a written reprimand or admonishment, impose fines or penalties, deny purse money, require the forfeiture of purse money, or any combination thereof with regard to a licensee or other person participating in Kentucky horse racing for violation of any federal or state statute, regulation, or steward's or racing commission's directive, ruling, or order to preserve the integrity of Kentucky horse racing or to protect the racing public. The racing commission shall, by administrative regulation, establish the criteria for taking the actions described in this subsection;

(12) The racing commission may issue subpoenas for the attendance of witnesses before it and for the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities related to pari-mutuel horse racing ***or sports wagering*** within the Commonwealth. The racing commission may

administer oaths to witnesses and require witnesses to testify under oath whenever, in the judgment of the racing commission, it is necessary to do so for the effectual discharge of its duties;

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

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

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

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

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

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

(16) (a) The racing commission shall promulgate administrative regulations to establish standards for the conduct of sports wagering, including standards for receiving and paying out wagers, offering sports wagering through a

website or mobile application, maintaining and auditing books and financial records, securely maintaining records of bets and wagers, integrity requirements for sports wagering and related data, suitability requirements for providers of associated equipment, geofence standards for wager placement, designated areas for sports wagering, surveillance and monitoring systems, and other reasonable technical criteria related to conducting sports wagering.

(b) The racing commission shall promulgate administrative regulations related to age requirements for placing sports wagers, availability of information related to sports wagers, and licensing requirements, including temporary authorizations, for service providers, vendors, and suppliers.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) No person shall conduct, manage, or offer to conduct sports wagering within the Commonwealth of Kentucky without obtaining a license from the racing commission.

(2) As a prerequisite to obtaining a sports wagering license, a person shall be licensed as an association under KRS 230.300. If sports wagering is conducted by the track that chooses not to contract with a service provider, it shall comply with the standards established by the racing commission for service providers to ensure the integrity of the system of sports wagering before conducting sports wagering in the Commonwealth.

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

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

(5) Licensing fees paid under this section shall be deposited into the sports wagering administration fund established by Section 1 of this Act.

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

(1) The racing commission may issue a service provider license to a qualified applicant.

(2) A person applying for a service provider license under this chapter shall pay a nonrefundable application fee of fifty thousand dollars ($50,000) to the racing commission.

(3) In determining whether to grant a service provider's license to an applicant, the racing commission shall consider:

(a) The applicant and its past, current, or future operations; and

(b) A person that is deemed to have control over the applicant. For the purposes of this section, the following persons are deemed to have control over an applicant:

1. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns five percent (5%) or more of the corporate applicant or licensee and that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee;

2. Each person associated with a noncorporate applicant or licensee that directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's business operation or that the director otherwise determines has the ability to control the noncorporate applicant or licensee; and

3. Any officer or director of an applicant or licensee having the power to

exercise significant influence over decisions concerning any part of the applicant's or licensee's relevant sports wagering business operation in this state.

(4) A service provider licensee shall pay an annual renewal fee of ten thousand dollars ($10,000).

(5) A person applying for a service provider license to conduct sports wagering through an agreement with a licensed track may receive a temporary license to immediately commence sports wagering operations if the applicant:

(a) Satisfies the racing commission's requirements for a temporary license, which may consider operations in other jurisdictions in the United States; and

(b) Pays the initial licensing fee of fifty thousand dollars ($50,000) under subsection (2) of this section to the racing commission.

(6) A temporary license granted to an applicant for a service provider to offer sports wagering under subsection (5) of this section may be valid for up to one (1) year, during which a permanent license shall be granted or denied. An applicant shall not be eligible for an extended or renewed temporary license. The racing commission reserves the right to revoke any license issued pursuant to this chapter if it determines that the licensee has violated any provisions of this chapter or is otherwise deemed unfit for a license.

(7) Fees paid under this section shall be deposited into the sports wagering administration fund established by Section 1 of this Act.

➔Section 11. KRS 230.310 is amended to read as follows:

(1) Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a

service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, or in any other capacity as the racing commission shall from time to time establish by administrative regulation, shall first apply to the racing commission for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the racing commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The racing commission is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The racing commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.

(2) ***Every person who desires to participate in sports wagering in the Commonwealth working in a licensed facility for sports wagering, directly supervising individuals who have the capability of affecting the outcome of sports wagering, or having the capability to affect the outcome of sports wagering through deployment of code to production for any critical component of a sports wagering system or the capability to deploy code to production shall first apply to the commission for a valid occupational license to participate in that activity. An applicant for an occupational license shall submit to the racing commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The racing commission is authorized to exchange fingerprint***

data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The racing commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of sports wagering in the Commonwealth, and the maintenance of the honesty, integrity, and high quality thereof.

(3) A license may be issued for the calendar year for which an applicant applies or, if authorized by administrative regulation, a license may be issued that expires on the last day of the birth month of the licensee. A license may be renewed by the racing commission. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the racing commission under this chapter. With respect to horse owners and trainers, the racing commission may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

➔Section 12. KRS 230.361 is amended to read as follows:

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

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

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

(2) ***The racing commission shall promulgate administrative regulations governing and regulating sports wagering, including administrative regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer. The racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system within six (6) months after the effective date of this Act.***

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

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

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

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Adjusted gross revenue" means the total sum of bets collected by a sports wagering licensee, less winnings paid to participants in the contest and all

excise taxes paid pursuant to federal law;

(b) "Department" means Department of Revenue; and

(c) "Sports wagering" has the same meaning as in Section 2 of this Act.

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

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

(b) Fourteen and one-quarter percent (14.25%) on the adjusted gross revenue on wagers placed online via websites or mobile applications or other off-site technology approved by the Kentucky Horse Racing Commission;

and shall be appropriated to the sports wagering administration fund established in Section 1 of this Act and appropriated for the purposes established in that section.

(3) The department shall enforce the provisions of and collect the taxes and penalties imposed in this section, and in doing so it shall have the general powers and duties granted it in KRS Chapters 131 and 135, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the taxes, penalties, and other payments imposed or required by this section.

(4) The tax imposed by this section is due and payable to the department monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month. If a sports wagering licensee's adjusted gross revenue for a month is a negative number, the sports wagering licensee may carry over the negative amount to the return filed for the subsequent month. However, no amount shall be carried over in any period more than twelve (12) months after the month in which the amount carried over was originally due.

(5) (a) Payment shall be accompanied by a return form which the department shall prescribe.

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

1. The total sum of bets collected in person and electronically through a mobile application;

2. Winnings paid in person and electronically through a mobile application;

3. Adjusted gross revenue in person and electronically through a mobile application;

4. Tax rates applied to adjusted gross revenue in person and electronically through a mobile application;

5. The tax due from adjusted gross revenues in person and electronically through a mobile application;

6. Federal excise taxes paid; and

7. The total wagering tax due.

(6) Wagering taxes due and payable in accordance with this section shall be paid via electronic funds transfer. Sports wagering licensees shall provide the department with all protocol documentation and electronic funds transfer data necessary to facilitate the timely transfer of funds.

(7) Any person who violates any provision of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6).

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

(9) The taxes imposed by this section shall be in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from, the operation of sports wagering.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

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

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

(a) Players;

(b) Coaches;

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

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

(e) Owners or shareholders of more than five percent (5%) interest in professional sports teams who might have influence over players and coaches through the ability to hire or fire; and

(f) Other persons identified by the racing commission as participants.

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

(a) Alter the outcome of the sporting event; or

(b) Alter actions within the sporting event upon which people might place sports wagers.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) An employee of any track shall not wager or be paid a prize from any wager placed with that sports wagering licensee or placed online via a website or mobile application with a service provider licensee that has an agreement with that sports wagering licensee.

(2) An employee of any service provider licensee offering sports wagering through an agreement with a track shall not wager or be paid a prize from any wager placed with that track or placed online via a website or mobile application with a service provider licensee that has an agreement with that track.

➔Section 16. KRS 230.990 is amended to read as follows:

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

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

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

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

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

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

(b) Any person who, while outside the Commonwealth and with intent to influence the outcome of a horse race contested within the Commonwealth, tampers with or interferes with any equine participant involved in or eligible to compete in a horse race in the Commonwealth is guilty of tampering with or interfering with a horse race.

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

(7) Any participant who wagers on a sporting event in violation of Section 14 of this

Act is guilty of a Class A misdemeanor.

(8) Any person tampering with the outcome of a sporting event in violation of Section 14 of this Act is guilty of a Class C felony.

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

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

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

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

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

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

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

(c) Any felony.

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

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

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

game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This subsection shall not apply to:

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

(b) The operation of a pari-mutuel system for betting, ***or the operation of sports wagering,*** where authorized by law;

(c) The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or

(d) Special temporary raffles of alcoholic beverages under KRS 243.036.

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

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

(b) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; or

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

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

➔Section 18. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when ***the person***~~[he]~~:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice, or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505***, or is engaged in sports wagering licensed under KRS Chapter 230***;~~[or]~~

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

(c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or

responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

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

(2) Loitering is a violation.

➔Section 19. KRS 528.010 is amended to read as follows:

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

(1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he ***or she*** engages in conduct that materially aids any form of gambling activity ***not authorized by the General Assembly***. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein;

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business ***not authorized by the General Assembly***;

(3) "Charitable gaming" means games of chance conducted by charitable organizations

licensed and regulated under the provisions of KRS Chapter 238;

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

(b) Gambling shall not mean charitable gaming which is licensed and regulated under~~[the provisions of]~~ KRS Chapter 238 ***or activities authorized by the General Assembly***;

(5) "Gambling device" means:

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

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

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

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

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks;

2. Devices dispensing or selling combination or French pools on historical races at licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission;

3. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free

games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise;~~[or]~~

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

5. Devices used in conduct authorized by the General Assembly;

(6) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

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

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

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

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

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

(8) "Player" means a person who engages in any form of gambling solely as a

contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter;

(9) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, ***the person*** ~~he~~ accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any ***other*** person whereby ***the person*** ~~he~~ participates or is to participate in the proceeds of gambling activity ***not authorized by the General Assembly***;

(10) "Simulated gambling program" means any method ***not authorized by the General Assembly which is*** intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of an element of chance, either deliver money or property or an entitlement to receive money or property; and

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

➔Section 20. KRS 528.020 is amended to read as follows:

(1) A person is guilty of promoting gambling in the first degree when ***the person*** ~~he~~ knowingly advances or profits from unlawful gambling activity ***not authorized by the General Assembly*** by:

(a) Engaging in bookmaking to the extent that ***the person*** ~~he~~ employs or utilizes three or more persons in a bookmaking activity and receives or accepts in any

one day bets totaling more than $500; or

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

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

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

(c) Setting up and operating a gambling device.

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

➔Section 21. KRS 528.070 is amended to read as follows:

(1) A person is guilty of permitting gambling when, having possession or control of premises which he ***or she*** knows are being used to advance gambling activity ***not authorized by the General Assembly***, he ***or she*** fails to halt or abate or attempt to halt or abate such use within a reasonable period of time.

(2) Permitting gambling is a Class B misdemeanor.

➔Section 22. KRS 528.080 is amended to read as follows:

(1) A person is guilty of possession of a gambling device when, with knowledge of the character thereof, he ***or she*** manufactures, sells, transports, places or possesses a gambling device or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device ***not authorized by the General Assembly***, believing that it is to be used in the advancement of unlawful gambling activity.

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

➔Section 23. KRS 68.182 is amended to read as follows:

(1) Occupational license fees levied under KRS 67.083, 68.180, and 68.197 by the fiscal court of a county, consolidated local government, urban-county government, charter county government, or unified local government may apply to racetrack extensions.

(2) As used in this section:

(a) "Historical horse race" has the same meaning as in KRS 138.511; and

(b) 1. "Racetrack extension" means any facility:

a. Owned, leased, or purchased by an association licensed by the Kentucky Horse Racing Commission under KRS 230.300;

b. That meets the definition of "track" under ***subsection (34)(c) of Section 2 of this Act*** ~~[KRS 230.210(24)(c)]~~; and

c. Where pari-mutuel wagering on historical horse races is conducted on terminals approved by the Kentucky Horse Racing Commission.

2. "Racetrack extension" does not include a facility or real property used for training horses or at which live horse races are run for stakes, purses, or prizes under the jurisdiction of the Kentucky Horse Racing Commission.

➔Section 24. KRS 91.202 is amended to read as follows:

(1) Occupational license fees levied under KRS 91.200 by the legislative body of a city of the first class may apply to racetrack extensions.

(2) As used in this section:

(a) "Historical horse race" has the same meaning as in KRS 138.511; and

(b) 1. "Racetrack extension" means any facility:

a. Owned, leased, or purchased by an association licensed by the Kentucky Horse Racing Commission under KRS 230.300;

b. That meets the definition of "track" under ***subsection (34)(c) of Section 2 of this Act*** ~~[KRS 230.210(24)(c)]~~; and

c. Where pari-mutuel wagering on historical horse races is conducted on terminals approved by the Kentucky Horse Racing Commission.

2. "Racetrack extension" does not include a facility or real property used for training horses or at which live horse races are run for stakes, purses, or prizes under the jurisdiction of the Kentucky Horse Racing Commission.

➔Section 25. KRS 92.282 is amended to read as follows:

(1) Occupational license fees levied under KRS 92.281 by the legislative body of a city may apply to racetrack extensions.

(2) As used in this section:

(a) "Historical horse race" has the same meaning as in KRS 138.511; and

(b) 1. "Racetrack extension" means any facility:

a. Owned, leased, or purchased by an association licensed by the Kentucky Horse Racing Commission under KRS 230.300;

b. That meets the definition of "track" under ***subsection (34)(c) of Section 2 of this Act*** ~~[KRS 230.210(24)(c)]~~; and

c. Where pari-mutuel wagering on historical horse races is conducted on terminals approved by the Kentucky Horse Racing Commission.

2. "Racetrack extension" does not include a facility or real property used for training horses or at which live horse races are run for stakes, purses, or prizes under the jurisdiction of the Kentucky Horse Racing Commission.

➔Section 26. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.