

SENATE BILL No. 225

By Committee on Federal and State Affairs

3-8

1 AN ACT concerning certain crimes; relating to charitable poker
2 tournaments; amending K.S.A. 2016 Supp. 21-6403 and repealing the
3 existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 21-6403 is hereby amended to read as
7 follows: 21-6403. As used in K.S.A. 2016 Supp. 21-6403 through 21-
8 6409, and amendments thereto:

9 (a) "Bet" means a bargain in which the parties agree that, dependent
10 upon chance, one stands to win or lose something of value specified in the
11 agreement. A bet does not include:

12 (1) Bona fide business transactions which are valid under the law of
13 contracts including, but not limited to, contracts for the purchase or sale at
14 a future date of securities or other commodities, and agreements to
15 compensation for loss caused by the happening of the chance including,
16 but not limited to, contracts of indemnity or guaranty and life or health and
17 accident insurance;

18 (2) offers of purses, prizes or premiums to the actual contestants in
19 any bona fide contest for the determination of skill, speed, strength or
20 endurance or to the bona fide owners of animals or vehicles entered in
21 such a contest;

22 (3) a lottery as defined in this section;

23 (4) any bingo game by or for participants managed, operated or
24 conducted in accordance with the laws of the state of Kansas by an
25 organization licensed by the state of Kansas to manage, operate or conduct
26 games of bingo;

27 (5) a lottery operated by the state pursuant to the Kansas lottery act;

28 (6) any system of parimutuel wagering managed, operated and
29 conducted in accordance with the Kansas parimutuel racing act;

30 (7) tribal gaming;

31 (8) charitable raffles as defined by K.S.A. 2016 Supp. 75-5173, and
32 amendments thereto;

33 (9) a fantasy sports league as defined in this section; or

34 (10) a charitable poker tournament as defined in this section;

35 (b) "lottery" means an enterprise wherein for a consideration the
36 participants are given an opportunity to win a prize, the award of which is

1 determined by chance. A lottery does not include:

2 (1) A lottery operated by the state pursuant to the Kansas lottery act;
3 or

4 (2) tribal gaming;

5 (c) "consideration" means anything which is a commercial or
6 financial advantage to the promoter or a disadvantage to any participant.
7 Mere registration without purchase of goods or services; personal
8 attendance at places or events, without payment of an admission price or
9 fee; listening to or watching radio and television programs; answering the
10 telephone or making a telephone call and acts of like nature are not
11 consideration. "Consideration" shall not include sums of money paid by or
12 for:

13 (1) Participants in any bingo game managed, operated or conducted
14 in accordance with the laws of the state of Kansas by any bona fide
15 nonprofit religious, charitable, fraternal, educational or veteran
16 organization licensed to manage, operate or conduct bingo games under
17 the laws of the state of Kansas and it shall be conclusively presumed that
18 such sums paid by or for such participants were intended by such
19 participants to be for the benefit of the sponsoring organizations for the use
20 of such sponsoring organizations in furthering the purposes of such
21 sponsoring organizations, as set forth in the appropriate paragraphs of
22 section 501(c) or (d) of the internal revenue code of 1986 and as set forth
23 in K.S.A. 79-4701, and amendments thereto;

24 (2) participants in any lottery operated by the state pursuant to the
25 Kansas lottery act;

26 (3) participants in any system of parimutuel wagering managed,
27 operated and conducted in accordance with the Kansas parimutuel racing
28 act; or

29 (4) a person to participate in tribal gaming;

30 (d) *"charitable poker tournament" means a poker game or contest in*
31 *which participants make a donation, which is suggested but not required,*
32 *to participate in the game or contest. The primary purpose of the game or*
33 *contest is to raise money for a bona fide nonprofit religious, charitable,*
34 *fraternal, educational or veterans' organization, as defined in K.S.A. 75-*
35 *5173, and amendments thereto. Prizes are awarded to a select number of*
36 *winners of the game or contest;*

37 (e) "fantasy sports league" means any fantasy or simulation sports
38 game or contest in which no fantasy or simulation sports team is based on
39 the current membership of an actual team that is a member of an amateur
40 or professional sports organization and that meets the following
41 conditions:

42 (1) All prizes and awards offered to winning participants are
43 established and made known to the participants in advance of the game or

1 contest and their value is not determined by the number of participants or
2 the amount of any fees paid by those participants;

3 (2) all winning outcomes reflect the relative knowledge and skill of
4 the participants and are determined predominantly by accumulated
5 statistical results of the performance of individual athletes in multiple real-
6 world sporting events; and

7 (3) no winning outcome is based:

8 (A) On the score, point spread or any performance or performances
9 of any single real-world team or any combination of such teams; or

10 (B) solely on any single performance of an individual athlete in any
11 single real-world sporting event.

12 ~~(e)~~ (f) (1) "gambling device" means any:

13 (A) So-called "slot machine" or any other machine, mechanical
14 device, electronic device or other contrivance an essential part of which is
15 a drum or reel with insignia thereon, and:

16 (i) Which when operated may deliver, as the result of chance, any
17 money or property; or

18 (ii) by the operation of which a person may become entitled to
19 receive, as the result of chance, any money or property;

20 (B) other machine, mechanical device, electronic device or other
21 contrivance including, but not limited to, roulette wheels and similar
22 devices, which are equipped with or designed to accommodate the addition
23 of a mechanism that enables accumulated credits to be removed, is
24 equipped with or designed to accommodate a mechanism to record the
25 number of credits removed or is otherwise designed, manufactured or
26 altered primarily for use in connection with gambling, and:

27 (i) Which when operated may deliver, as the result of chance, any
28 money or property; or

29 (ii) by the operation of which a person may become entitled to
30 receive, as the result of chance, any money or property;

31 (C) subassembly or essential part intended to be used in connection
32 with any such machine, mechanical device, electronic device or other
33 contrivance, but which is not attached to any such machine, mechanical
34 device, electronic device or other contrivance as a constituent part; or

35 (D) any token, chip, paper, receipt or other document which
36 evidences, purports to evidence or is designed to evidence participation in
37 a lottery or the making of a bet.

38 The fact that the prize is not automatically paid by the device does not
39 affect its character as a gambling device.

40 (2) "Gambling device" shall not include:

41 (A) Any machine, mechanical device, electronic device or other
42 contrivance used or for use by a licensee of the Kansas racing commission
43 as authorized by law and rules and regulations adopted by the commission

1 or by the Kansas lottery or Kansas lottery retailers as authorized by law
2 and rules and regulations adopted by the Kansas lottery commission;

3 (B) any machine, mechanical device, electronic device or other
4 contrivance, such as a coin-operated bowling alley, shuffleboard, marble
5 machine, a so-called pinball machine, or mechanical gun, which is not
6 designed and manufactured primarily for use in connection with gambling,
7 and:

8 (i) Which when operated does not deliver, as a result of chance, any
9 money; or

10 (ii) by the operation of which a person may not become entitled to
11 receive, as the result of the application of an element of chance, any
12 money;

13 (C) any so-called claw, crane or digger machine and similar devices
14 which are designed and manufactured primarily for use at carnivals or
15 county or state fairs; or

16 (D) any machine, mechanical device, electronic device or other
17 contrivance used in tribal gaming;

18 ~~(f)~~ (g) "gambling place" means any place, room, building, vehicle,
19 tent or location which is used for any of the following: Making and settling
20 bets; receiving, holding, recording or forwarding bets or offers to bet;
21 conducting lotteries; or playing gambling devices. Evidence that the place
22 has a general reputation as a gambling place or that, at or about the time in
23 question, it was frequently visited by persons known to be commercial
24 gamblers or known as frequenters of gambling places is admissible on the
25 issue of whether it is a gambling place;

26 ~~(g)~~ (h) "tribal gaming" means the same as in K.S.A. 74-9802, and
27 amendments thereto; and

28 ~~(h)~~ (i) "tribal gaming commission" means the same as in K.S.A. 74-
29 9802, and amendments thereto.

30 Sec. 2. K.S.A. 2016 Supp. 21-6403 is hereby repealed.

31 Sec. 3. This act shall take effect and be in force from and after its
32 publication in the statute book.