

HOUSE BILL No. 2371

By Committee on Federal and State Affairs

2-18

1 AN ACT concerning certain crimes; relating to fantasy sports leagues;
2 amending K.S.A. 2014 Supp. 21-6403 and repealing the existing
3 section.

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

6 Section 1. K.S.A. 2014 Supp. 21-6403 is hereby amended to read as
7 follows: 21-6403. As used in K.S.A. 2014 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; or

30 (7) tribal gaming; or

31 (8) a fantasy sports league as defined in this section;

32 (b) "lottery" means an enterprise wherein for a consideration the
33 participants are given an opportunity to win a prize, the award of which is
34 determined by chance. A lottery does not include:

35 (1) A lottery operated by the state pursuant to the Kansas lottery act;

36 or

1 (2) tribal gaming;

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

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

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

23 (3) participants in any system of parimutuel wagering managed,
24 operated and conducted in accordance with the Kansas parimutuel racing
25 act; or

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

27 (d) *"fantasy sports league" means any fantasy or simulation sports*
28 *game or contest in which no fantasy or simulation sports team is based on*
29 *the current membership of an actual team that is a member of an amateur*
30 *or professional sports organization and that meets the following*
31 *conditions:*

32 (1) *All prizes and awards offered to winning participants are*
33 *established and made known to the participants in advance of the game or*
34 *contest and their value is not determined by the number of participants or*
35 *the amount of any fees paid by those participants;*

36 (2) *all winning outcomes reflect the relative knowledge and skill of*
37 *the participants and are determined predominantly by accumulated*
38 *statistical results of the performance of individual athletes in multiple*
39 *real-world sporting events; and*

40 (3) *no winning outcome is based:*

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

43 (B) *solely on any single performance of an individual athlete in any*

1 *single real-world sporting event;*

2 ~~(d)~~ (e) (1) "gambling device" means any:

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

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

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

10 (B) other machine, mechanical device, electronic device or other
11 contrivance including, but not limited to, roulette wheels and similar
12 devices, which are equipped with or designed to accommodate the addition
13 of a mechanism that enables accumulated credits to be removed, is
14 equipped with or designed to accommodate a mechanism to record the
15 number of credits removed or is otherwise designed, manufactured or
16 altered primarily for use in connection with gambling, and:

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

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

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

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

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

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

31 (A) Any machine, mechanical device, electronic device or other
32 contrivance used or for use by a licensee of the Kansas racing commission
33 as authorized by law and rules and regulations adopted by the commission
34 or by the Kansas lottery or Kansas lottery retailers as authorized by law
35 and rules and regulations adopted by the Kansas lottery commission;

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

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

43 (ii) by the operation of which a person may not become entitled to

1 receive, as the result of the application of an element of chance, any
2 money;

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

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

8 ~~(e)~~ (f) "gambling place" means any place, room, building, vehicle,
9 tent or location which is used for any of the following: Making and settling
10 bets; receiving, holding, recording or forwarding bets or offers to bet;
11 conducting lotteries; or playing gambling devices. Evidence that the place
12 has a general reputation as a gambling place or that, at or about the time in
13 question, it was frequently visited by persons known to be commercial
14 gamblers or known as frequenters of gambling places is admissible on the
15 issue of whether it is a gambling place;

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

18 ~~(g)~~ (h) "tribal gaming commission" means the same as in K.S.A. 74-
19 9802, and amendments thereto.

20 Sec. 2. K.S.A. 2014 Supp. 21-6403 is hereby repealed.

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