

HOUSE BILL No. 2383

By Committee on Federal and State Affairs

2-20

1 AN ACT creating the Kansas charitable raffle act; amending K.S.A. 2014
2 Supp. 21-6403 and 79-3603 and repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. Sections 1 through 16, and amendments thereto, shall
6 be known and may be cited as the Kansas charitable raffle act.

7 New Sec. 2. (a) The legislature hereby declares that charitable raffles
8 conducted by charitable organizations are an important method of raising
9 funds for legitimate charitable purposes and are in the public interest. The
10 purpose of this act is to establish an effective and efficient mechanism for
11 regulating charitable raffles which includes:

12 (1) Defining the scope of charitable raffles;

13 (2) setting standards for the conduct of charitable raffles which insure
14 honesty and integrity;

15 (3) providing for means of accounting for all moneys generated
16 through the conduct of charitable raffles; and

17 (4) providing suitable penalties for violations of applicable laws and
18 administrative rules and regulations.

19 (b) The intent of this act is to:

20 (1) Prevent the commercialization of charitable raffles;

21 (2) prevent participation in charitable raffles by criminal and other
22 undesirable elements; and

23 (3) prevent the diversion of funds from legitimate charitable
24 purposes.

25 (c) In order to carry out the purpose and intent of this act, the
26 provisions of this act, and any administrative rules and regulations
27 promulgated in accordance with this act shall be construed in the public
28 interest and strictly enforced.

29 New Sec. 3. As used in this act:

30 (a) "Act" means the Kansas charitable raffle act.

31 (b) "Administrator" means the administrator of charitable raffles
32 designated by the secretary pursuant to section 14, and amendments
33 thereto.

34 (c) "Charitable raffle" means a raffle conducted by a nonprofit
35 religious, charitable, fraternal, educational or veterans' organization.

36 (d) "Department" means the department of revenue.

1 (e) "Director" means the director of taxation.

2 (f) "Electronic gaming device" means a device that, as a result of the
3 insertion of a coin or other object, operates, either completely
4 automatically or with the aid of some physical act by the player, in such a
5 manner that, depending upon elements of chance, it may eject something
6 of value.

7 (g) "Licensee" means any nonprofit organization holding a license to
8 manage, operate or conduct charitable raffles issued under section 6, and
9 amendments thereto.

10 (h) "Net proceeds" means the gross receipts received by the licensee
11 from charges imposed on players for participation in charitable raffles and
12 any admission fees or charges less amounts actually paid as prizes in
13 charitable raffles and any tax payable by the licensee.

14 (i) The terms "nonprofit religious organization," "nonprofit charitable
15 organization," "nonprofit fraternal organization," "nonprofit educational
16 organization" and "nonprofit veterans' organization" shall have the same
17 meaning ascribed to those terms in K.S.A. 79-4701, and amendments
18 thereto.

19 (j) "Person" means any natural person, corporation, partnership, trust
20 or association.

21 (k) "Raffle" means a game of chance in which each participant buys a
22 ticket or tickets from a nonprofit organization with each ticket providing
23 an equal chance to win a prize and the winner being determined by a
24 random drawing.

25 (l) "Secretary" means the secretary of revenue or the secretary's
26 designee.

27 New Sec. 4. (a) The power to regulate, license and tax the
28 management, operation and conduct of and participation in charitable
29 raffles is hereby vested exclusively in the state.

30 (b) The winner of any raffle shall be verified by a person who is not a
31 member of or employed by the nonprofit religious, charitable, fraternal,
32 educational or veterans' organization.

33 (c) No charitable raffles shall use an electronic gaming device to sell
34 raffle tickets or to conduct raffles. No raffle licensee shall contract with a
35 professional raffle or lottery vendor to manage, operate or conduct any
36 raffle.

37 New Sec. 5. (a) Any bona fide nonprofit religious, charitable,
38 fraternal, educational or veterans' organization desiring to manage, operate
39 or conduct charitable raffles within the state of Kansas may make
40 application for a license therefor in the manner provided under this
41 section. Application for licenses required under the provisions of this act
42 shall be made to the administrator upon forms prescribed by the
43 administrator. The application shall contain:

- 1 (1) The name and address of the organization;
- 2 (2) the particular place or location or multiple locations or premises
3 for which a license is desired;
- 4 (3) a sworn statement verifying that such organization is a bona fide
5 nonprofit religious, charitable, fraternal, educational or veterans'
6 organization authorized to operate within the state of Kansas signed by the
7 presiding officer and secretary of the organization; and
- 8 (4) such other information as may be required by the administrator.
- 9 (b) An application for a license required under the provisions of this
10 act shall be accompanied by a fee of \$25.
- 11 (c) All licenses issued under the provisions of this act shall be issued
12 in the name of the organization licensed. Licenses issued under the
13 provisions of this act shall not be transferred or assignable.
- 14 (e) No license shall be issued to any bona fide nonprofit religious,
15 charitable, fraternal, educational or veterans' organization if any of its
16 officers, directors or officials or persons employed on the premises:
- 17 (1) Have been convicted of, have pleaded guilty to or pleaded nolo
18 contendere to a violation of gambling laws of any state or the gambling
19 laws of the United States, or shall have forfeited bond to appear in court to
20 answer charges for any such violation, or have been convicted or pleaded
21 guilty or pleaded nolo contendere to the violation of any law of this or any
22 other state which is classified as a felony under the laws of such state; or
- 23 (2) at the time of application for renewal of license issued hereunder
24 would not be eligible for such license upon a first application.
- 25 (f) Each license issued shall expire at midnight on June 30 following
26 its date of issuance.
- 27 (g) The provisions of this section shall not apply to any bona fide
28 nonprofit religious, charitable, fraternal, educational or veterans'
29 organization that conducts charitable raffles for which the aggregate gross
30 receipts from such raffles in the calendar year does not exceed \$25,000.
- 31 New Sec. 6. For the purpose of providing revenue which may be used
32 by the state and for the privilege of operating or conducting charitable
33 raffles under authority of this act there is hereby levied and there shall be
34 collected and paid by each licensee an enforcement tax at the rate of 1%
35 upon the gross receipts received by the licensee for charitable raffles in
36 any calendar year.
- 37 New Sec. 7. (a) On dates prescribed by the administrator, every
38 licensee shall return to the administrator upon forms prescribed by the
39 administrator. Such form shall contain:
- 40 (1) The name and address of the licensee;
- 41 (2) the amount of gross receipts received from charitable raffles
42 conducted by the licensee; and
- 43 (3) any other information deemed necessary by the administrator.

1 (b) At the time of making such return, licensees shall remit to the
2 administrator the amount of the tax due under section 6, and amendments
3 thereto. The administrator may extend the time for the payment of such
4 taxes for a period not to exceed 60 days under rules and regulations
5 adopted pursuant to this act.

6 (c) If any licensee fails to make a return or remit any tax when
7 required to do so by the provisions of this act, except in the case of an
8 extension of time granted by the administrator, there shall be added to the
9 tax determined to be due a penalty of 25% of the amount of such tax,
10 together with interest at the rate per month prescribed by K.S.A. 79-
11 2968(a), and amendments thereto, from the date the tax was due until paid.

12 (d) If any tax determined and assessed by the administrator is not
13 remitted due to fraud with intent to evade the tax imposed by this act, there
14 shall be added thereto a penalty of 50% of the amount of such tax, together
15 with interest at the rate per month prescribed by K.S.A. 79-2968(a), and
16 amendments thereto, from the date the tax was due until paid.

17 (e) Whenever, in the judgment of the administrator, the failure of any
18 licensee to comply with the provisions of this section was due to
19 reasonable cause, the administrator, in the administrator's discretion, may
20 waive or reduce any of the penalties or interest imposed by this section,
21 upon making a record of the reason therefor.

22 (f) The penalties imposed under this section shall be in addition to all
23 other penalties imposed by law.

24 New Sec. 8. (a) For the purpose of ascertaining the correctness of any
25 return or for the purpose of determining the receipts and remittances of
26 any licensee, the administrator may examine any books, papers, records or
27 memoranda, bearing upon the matters required to be included in the
28 records of the licensee. The administrator may require the attendance of
29 the licensee in the county where the licensee resides, or where the
30 charitable raffles are conducted, or of any person having knowledge
31 relating to such records, and may take testimony and require proof of such
32 person or persons.

33 (b) The administrator may issue subpoenas to compel access to or for
34 the production of such books, papers, records or memoranda in the custody
35 of or to which the licensee has access, or to compel the appearance of such
36 persons. The administrator may issue interrogatories to any such person to
37 the same extent and subject to the same limitations as would apply if the
38 subpoena or interrogatories were issued or served in aid of a civil action in
39 the district court. The administrator may administer oaths and take
40 depositions to the same extent and subject to the same limitations as would
41 apply if the deposition was in aid of a civil action in the district court. In
42 case of the refusal of any person to comply with any subpoena or
43 interrogatory or to testify to any matter regarding which such person

1 lawfully may be questioned, the district court of any county, upon
2 application of the administrator, may order such person to comply with
3 such subpoena or interrogatory or to testify. Failure to obey the court's
4 order may be punished by the court as contempt. Subpoenas or
5 interrogatories issued under the provisions of this section may be served
6 upon individuals and corporations in the manner provided in K.S.A. 60-
7 304, and amendments thereto, for the service of process by any officer
8 authorized to serve subpoenas in civil actions or by the administrator.

9 New Sec. 9. (a) No person may receive any remuneration or profit for
10 participating in the management, conduct or operation of any charitable
11 raffle managed, conducted or operated by a licensee. Any employee of the
12 licensee, however, may assist in the conduct of any charitable raffle.

13 (b) Charitable raffle licensees shall report to the department the name
14 and address of all raffle winners of any prize the value of which is \$1,199
15 or more. The retail value of any merchandise received by a winner of a
16 charitable raffle shall be considered as the cash value for the purposes of
17 determining the value of the prize.

18 (c) The raffle of a motor vehicle shall be deemed an isolated or
19 occasional sale of such motor vehicle to the raffle winner and subject to
20 retailer's sales tax pursuant to K.S.A. 79-3603(o), and amendments thereto.

21 (d) Each licensee shall keep a record of all charitable raffles
22 managed, operated or conducted by such licensee for a period of three
23 years following the date the raffle is managed, operated or conducted.

24 New Sec. 10. (a) The administrator, after a hearing in accordance
25 with the provisions of the Kansas administrative procedure act, may
26 revoke or suspend any license issued under the provisions of this act for
27 any of the following reasons:

28 (1) The licensee has obtained the license by giving false information
29 in the application therefor;

30 (2) the licensee has violated any of the laws of the state of Kansas or
31 provisions of this act or any rules and regulations adopted pursuant thereto
32 for the licensing, taxing, management, conduct or operation of charitable
33 raffles; or

34 (3) the licensee has become ineligible to obtain a license under this
35 act.

36 (b) Any action of the administrator pursuant to subsection (a) is
37 subject to review in accordance with the Kansas judicial review act. In
38 case of the revocation of the license of any licensee, no new license shall
39 be issued to such organization, or any person acting for or on its behalf, for
40 a period of six months thereafter. No revocation or suspension of a license
41 shall be for a period in excess of one year if the applicant otherwise is
42 qualified on the date the applicant makes a new application therefor.

43 (c) The administrator is hereby authorized to enjoin any person from

1 managing, operating or conducting any charitable raffle, if such person
2 does not possess a valid license issued pursuant to the provisions of this
3 act. The administrator shall be entitled to have an order restraining such
4 person from managing, operating or conducting any charitable raffle or for
5 any other purpose contrary to the provisions of this act. No bond shall be
6 required for any such restraining order, nor for any temporary or
7 permanent injunction issued in such proceedings.

8 New Sec. 11. (a) All amounts received by or for the administrator
9 from license fees pursuant to this act shall be remitted to the state treasurer
10 in accordance with the provisions of K.S.A. 75-4215, and amendments
11 thereto. Upon receipt of each such remittance, the state treasurer shall
12 deposit the entire amount in the state treasury to the credit of the state
13 charitable raffle regulation fund, except as provided by section 12, and
14 amendments thereto.

15 (b) All amounts received by or for the administrator from the tax
16 levied pursuant to section 6, and amendments thereto, shall be remitted to
17 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
18 and amendments thereto. Upon receipt of each such remittance, the state
19 treasurer shall deposit the entire amount in the state treasury credited to the
20 state charitable raffle regulation fund, except as provided by section 12,
21 and amendments thereto.

22 (c) There is hereby created in the state treasury the state charitable
23 raffle regulation fund. Except as provided by subsection (d), all moneys in
24 the state charitable raffle regulation fund shall be expended for the
25 administration and enforcement of the Kansas charitable raffle act, and
26 rules and regulations adopted pursuant thereto. Such expenditures shall be
27 made upon vouchers approved by the administrator.

28 (d) Except as otherwise provided by this act, all operating expenses
29 of the administrator related to the administration and enforcement of the
30 Kansas charitable raffle act appropriated by the legislature shall be paid
31 from the state charitable raffle regulation fund. At the end of each fiscal
32 year, the director of accounts and reports shall transfer to the state general
33 fund any moneys in the state charitable raffle regulation fund on each such
34 date in excess of the amount required to pay all operating expenses of the
35 administrator related to the administration and enforcement of the Kansas
36 charitable raffle act.

37 New Sec. 12. There is hereby created the charitable raffle refund fund
38 in the state treasury. The Kansas charitable raffle refund fund shall be a
39 refund clearing fund and refunds of the fees imposed under section 5, and
40 amendments thereto, and of the tax levied under section 6, and
41 amendments thereto, shall be made from such fund. The charitable raffle
42 refund fund shall be maintained by the administrator from the license and
43 registration fees received and taxes collected under the Kansas charitable

1 raffle act in an amount sufficient for such refunds not to exceed \$10,000.

2 New Sec. 13. (a) In addition to or in lieu of any other civil or criminal
3 penalty provided by law, the administrator, upon a finding that a licensee
4 has violated any provision of the Kansas charitable raffle act or any rule
5 and regulation adopted pursuant thereto, shall impose on such licensee a
6 civil fine not exceeding \$500 for each violation.

7 (b) No fine shall be imposed pursuant to this section except upon the
8 written order of the administrator to the licensee who committed the
9 violation. Such order shall state the violation, the fine to be imposed and
10 the right of the licensee to appeal the order. Such order shall be subject to
11 appeal and review in the manner provided by the Kansas administrative
12 procedure act.

13 (c) Any fine collected pursuant to this section shall be remitted to the
14 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
15 amendments thereto. Upon receipt of each such remittance, the state
16 treasurer shall deposit the entire amount in the state treasury to the credit
17 of the state charitable raffle regulation fund.

18 New Sec. 14. (a) The secretary of revenue shall designate an
19 administrator of charitable raffles. The administrator of charitable raffles
20 shall be in the unclassified service and shall receive an annual salary fixed
21 by the secretary of revenue and approved by the governor.

22 (b) Under the supervision of the secretary, the administration and
23 enforcement of the Kansas charitable raffle act and any rules and
24 regulations adopted pursuant thereto shall be vested in the administrator.
25 The administrator's exclusive duties shall be the administration and
26 enforcement of the Kansas charitable raffle act and any rules and
27 regulations adopted pursuant thereto. The administrator shall be solely
28 accountable to and report to the secretary of revenue.

29 (c) Upon recommendation of the administrator, the secretary shall
30 adopt all rules and regulations necessary for the administration and
31 enforcement of the Kansas charitable raffle act by the administrator.

32 New Sec. 15. If any provision of the Kansas charitable raffle act or
33 the application thereof to any person or circumstances is held
34 unconstitutional or otherwise invalid, such unconstitutionality or invalidity
35 shall not affect other provisions or applications of the act which can be
36 given effect without the unconstitutional or invalid provision or
37 application, and, to this end, the provisions of this act are severable.

38 New Sec. 16. The secretary of revenue shall adopt rules and
39 regulations governing the conduct of raffles by nonprofit religious,
40 charitable, fraternal, educational and veterans' organizations. The rules and
41 regulations may include, but not be limited to, standards for the
42 preparation, sale and accountability of tickets, the conduct of drawings and
43 the awarding of prizes.

1 Sec. 17. K.S.A. 2014 Supp. 21-6403 is hereby amended to read as
2 follows: 21-6403. As used in K.S.A. 2014 Supp. 21-6403 through 21-
3 6409, and amendments thereto:

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

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

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

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

18 (4) any bingo game by or for participants managed, operated or
19 conducted in accordance with the laws of the state of Kansas by an
20 organization licensed by the state of Kansas to manage, operate or conduct
21 games of bingo;

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

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

25 (7) tribal gaming; *or*

26 (8) *charitable raffles managed, operated and conducted in*
27 *accordance with the Kansas charitable raffle act, section 1 et seq., and*
28 *amendments thereto.*

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

32 (1) A lottery operated by the state pursuant to the Kansas lottery act;
33 or

34 (2) tribal gaming;

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

43 (1) Participants in any bingo game managed, operated or conducted

1 in accordance with the laws of the state of Kansas by any bona fide
2 nonprofit religious, charitable, fraternal, educational or veteran
3 organization licensed to manage, operate or conduct bingo games under
4 the laws of the state of Kansas and it shall be conclusively presumed that
5 such sums paid by or for such participants were intended by such
6 participants to be for the benefit of the sponsoring organizations for the use
7 of such sponsoring organizations in furthering the purposes of such
8 sponsoring organizations, as set forth in the appropriate paragraphs of
9 ~~subsection (e) or (d) of section 501(c) or (d)~~ of the internal revenue code
10 of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;

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

13 (3) participants in any system of parimutuel wagering managed,
14 operated and conducted in accordance with the Kansas parimutuel racing
15 act; or

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

17 (d) (1) "gambling device" means any:

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

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

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

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

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

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

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

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

43 The fact that the prize is not automatically paid by the device does not

1 affect its character as a gambling device.

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

3 (A) Any machine, mechanical device, electronic device or other
4 contrivance used or for use by a licensee of the Kansas racing commission
5 as authorized by law and rules and regulations adopted by the commission
6 or by the Kansas lottery or Kansas lottery retailers as authorized by law
7 and rules and regulations adopted by the Kansas lottery commission;

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

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

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

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

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

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

31 (f) "tribal gaming" means the same as in K.S.A. 74-9802, and
32 amendments thereto; and

33 (g) "tribal gaming commission" means the same as in K.S.A. 74-
34 9802, and amendments thereto.

35 Sec. 18. K.S.A. 2014 Supp. 79-3603 is hereby amended to read as
36 follows: 79-3603. For the privilege of engaging in the business of selling
37 tangible personal property at retail in this state or rendering or furnishing
38 any of the services taxable under this act, there is hereby levied and there
39 shall be collected and paid a tax at the rate of 6.15%. Within a
40 redevelopment district established pursuant to K.S.A. 74-8921, and
41 amendments thereto, there is hereby levied and there shall be collected and
42 paid an additional tax at the rate of 2% until the earlier of the date the
43 bonds issued to finance or refinance the redevelopment project have been

1 paid in full or the final scheduled maturity of the first series of bonds
2 issued to finance any part of the project upon:

3 (a) The gross receipts received from the sale of tangible personal
4 property at retail within this state;

5 (b) the gross receipts from intrastate, interstate or international
6 telecommunications services and any ancillary services sourced to this
7 state in accordance with K.S.A. 2014 Supp. 79-3673, and amendments
8 thereto, except that telecommunications service does not include: (1) Any
9 interstate or international 800 or 900 service; (2) any interstate or
10 international private communications service as defined in K.S.A. 2014
11 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice
12 data service; (4) any telecommunication service to a provider of
13 telecommunication services which will be used to render
14 telecommunications services, including carrier access services; or (5) any
15 service or transaction defined in this section among entities classified as
16 members of an affiliated group as provided by section 1504 of the federal
17 internal revenue code of 1986, as in effect on January 1, 2001;

18 (c) the gross receipts from the sale or furnishing of gas, water,
19 electricity and heat, which sale is not otherwise exempt from taxation
20 under the provisions of this act, and whether furnished by municipally or
21 privately owned utilities, except that, on and after January 1, 2006, for
22 sales of gas, electricity and heat delivered through mains, lines or pipes to
23 residential premises for noncommercial use by the occupant of such
24 premises, and for agricultural use and also, for such use, all sales of
25 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
26 gas, coal, wood and other fuel sources for the production of heat or
27 lighting for noncommercial use of an occupant of residential premises, the
28 state rate shall be 0%, but such tax shall not be levied and collected upon
29 the gross receipts from: (1) The sale of a rural water district benefit unit;
30 (2) a water system impact fee, system enhancement fee or similar fee
31 collected by a water supplier as a condition for establishing service; or (3)
32 connection or reconnection fees collected by a water supplier;

33 (d) the gross receipts from the sale of meals or drinks furnished at any
34 private club, drinking establishment, catered event, restaurant, eating
35 house, dining car, hotel, drugstore or other place where meals or drinks are
36 regularly sold to the public;

37 (e) the gross receipts from the sale of admissions to any place
38 providing amusement, entertainment or recreation services including
39 admissions to state, county, district and local fairs, but such tax shall not
40 be levied and collected upon the gross receipts received from sales of
41 admissions to any cultural and historical event which occurs triennially;

42 (f) the gross receipts from the operation of any coin-operated device
43 dispensing or providing tangible personal property, amusement or other

1 services except laundry services, whether automatic or manually operated;
2 (g) the gross receipts from the service of renting of rooms by hotels,
3 as defined by K.S.A. 36-501, and amendments thereto, or by
4 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
5 thereto, but such tax shall not be levied and collected upon the gross
6 receipts received from sales of such service to the federal government and
7 any agency, officer or employee thereof in association with the
8 performance of official government duties;

9 (h) the gross receipts from the service of renting or leasing of tangible
10 personal property except such tax shall not apply to the renting or leasing
11 of machinery, equipment or other personal property owned by a city and
12 purchased from the proceeds of industrial revenue bonds issued prior to
13 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
14 12-1749, and amendments thereto, and any city or lessee renting or leasing
15 such machinery, equipment or other personal property purchased with the
16 proceeds of such bonds who shall have paid a tax under the provisions of
17 this section upon sales made prior to July 1, 1973, shall be entitled to a
18 refund from the sales tax refund fund of all taxes paid thereon;

19 (i) the gross receipts from the rendering of dry cleaning, pressing,
20 dyeing and laundry services except laundry services rendered through a
21 coin-operated device whether automatic or manually operated;

22 (j) the gross receipts from the rendering of the services of washing
23 and washing and waxing of vehicles;

24 (k) the gross receipts from cable, community antennae and other
25 subscriber radio and television services;

26 (l) (1) except as otherwise provided by paragraph (2), the gross
27 receipts received from the sales of tangible personal property to all
28 contractors, subcontractors or repairmen for use by them in erecting
29 structures, or building on, or otherwise improving, altering, or repairing
30 real or personal property.

31 (2) Any such contractor, subcontractor or repairman who maintains
32 an inventory of such property both for sale at retail and for use by them for
33 the purposes described by paragraph (1) shall be deemed a retailer with
34 respect to purchases for and sales from such inventory, except that the
35 gross receipts received from any such sale, other than a sale at retail, shall
36 be equal to the total purchase price paid for such property and the tax
37 imposed thereon shall be paid by the deemed retailer;

38 (m) the gross receipts received from fees and charges by public and
39 private clubs, drinking establishments, organizations and businesses for
40 participation in sports, games and other recreational activities, but such tax
41 shall not be levied and collected upon the gross receipts received from: (1)
42 Fees and charges by any political subdivision, by any organization exempt
43 from property taxation pursuant to ~~paragraph Ninth of~~ K.S.A. 79-201

1 *Ninth*, and amendments thereto, or by any youth recreation organization
2 exclusively providing services to persons 18 years of age or younger
3 which is exempt from federal income taxation pursuant to section 501(c)
4 (3) of the federal internal revenue code of 1986, for participation in sports,
5 games and other recreational activities; and (2) entry fees and charges for
6 participation in a special event or tournament sanctioned by a national
7 sporting association to which spectators are charged an admission which is
8 taxable pursuant to subsection (e);

9 (n) the gross receipts received from dues charged by public and
10 private clubs, drinking establishments, organizations and businesses,
11 payment of which entitles a member to the use of facilities for recreation
12 or entertainment, but such tax shall not be levied and collected upon the
13 gross receipts received from: (1) Dues charged by any organization exempt
14 from property taxation pursuant to ~~paragraphs Eighth and Ninth~~ of K.S.A.
15 79-201 *Eighth and Ninth*, and amendments thereto; and (2) sales of
16 memberships in a nonprofit organization which is exempt from federal
17 income taxation pursuant to section 501(c)(3) of the federal internal
18 revenue code of 1986, and whose purpose is to support the operation of a
19 nonprofit zoo;

20 (o) the gross receipts received from the isolated or occasional sale of
21 motor vehicles or trailers but not including: (1) The transfer of motor
22 vehicles or trailers by a person to a corporation or limited liability
23 company solely in exchange for stock securities or membership interest in
24 such corporation or limited liability company; or (2) the transfer of motor
25 vehicles or trailers by one corporation or limited liability company to
26 another when all of the assets of such corporation or limited liability
27 company are transferred to such other corporation or limited liability
28 company; or (3) the sale of motor vehicles or trailers which are subject to
29 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
30 amendments thereto, by an immediate family member to another
31 immediate family member. For the purposes of clause (3), immediate
32 family member means lineal ascendants or descendants, and their spouses.
33 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
34 on the isolated or occasional sale of motor vehicles or trailers on and after
35 July 1, 2004, which the base for computing the tax was the value pursuant
36 to ~~subsections (a), (b)(1) and (b)(2)~~ of K.S.A. 79-5105(a), (b)(1) and (b)
37 (2), and amendments thereto, when such amount was higher than the
38 amount of sales tax which would have been paid under the law as it
39 existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the
40 procedure prescribed by this section. Such refund shall be in an amount
41 equal to the difference between the amount of sales tax paid by the
42 taxpayer and the amount of sales tax which would have been paid by the
43 taxpayer under the law as it existed on June 30, 2004. Each claim for a

1 sales tax refund shall be verified and submitted not later than six months
2 from the effective date of this act to the director of taxation upon forms
3 furnished by the director and shall be accompanied by any additional
4 documentation required by the director. The director shall review each
5 claim and shall refund that amount of tax paid as provided by this act. All
6 such refunds shall be paid from the sales tax refund fund, upon warrants of
7 the director of accounts and reports pursuant to vouchers approved by the
8 director of taxation or the director's designee. No refund for an amount less
9 than \$10 shall be paid pursuant to this act. In determining the base for
10 computing the tax on such isolated or occasional sale, the fair market value
11 of any motor vehicle or trailer traded in by the purchaser to the seller may
12 be deducted from the selling price;

13 (p) the gross receipts received for the service of installing or applying
14 tangible personal property which when installed or applied is not being
15 held for sale in the regular course of business, and whether or not such
16 tangible personal property when installed or applied remains tangible
17 personal property or becomes a part of real estate, except that no tax shall
18 be imposed upon the service of installing or applying tangible personal
19 property in connection with the original construction of a building or
20 facility, the original construction, reconstruction, restoration, remodeling,
21 renovation, repair or replacement of a residence or the construction,
22 reconstruction, restoration, replacement or repair of a bridge or highway.

23 For the purposes of this subsection:

24 (1) "Original construction" shall mean the first or initial construction
25 of a new building or facility. The term "original construction" shall include
26 the addition of an entire room or floor to any existing building or facility,
27 the completion of any unfinished portion of any existing building or
28 facility and the restoration, reconstruction or replacement of a building,
29 facility or utility structure damaged or destroyed by fire, flood, tornado,
30 lightning, explosion, windstorm, ice loading and attendant winds,
31 terrorism or earthquake, but such term, except with regard to a residence,
32 shall not include replacement, remodeling, restoration, renovation or
33 reconstruction under any other circumstances;

34 (2) "building" shall mean only those enclosures within which
35 individuals customarily are employed, or which are customarily used to
36 house machinery, equipment or other property, and including the land
37 improvements immediately surrounding such building;

38 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water
39 well, feedlot or any conveyance, transmission or distribution line of any
40 cooperative, nonprofit, membership corporation organized under or subject
41 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
42 municipal or quasi-municipal corporation, including the land
43 improvements immediately surrounding such facility;

1 (4) "residence" shall mean only those enclosures within which
2 individuals customarily live;

3 (5) "utility structure" shall mean transmission and distribution lines
4 owned by an independent transmission company or cooperative, the
5 Kansas electric transmission authority or natural gas or electric public
6 utility; and

7 (6) "windstorm" shall mean straight line winds of at least 80 miles per
8 hour as determined by a recognized meteorological reporting agency or
9 organization;

10 (q) the gross receipts received for the service of repairing, servicing,
11 altering or maintaining tangible personal property which when such
12 services are rendered is not being held for sale in the regular course of
13 business, and whether or not any tangible personal property is transferred
14 in connection therewith. The tax imposed by this subsection shall be
15 applicable to the services of repairing, servicing, altering or maintaining an
16 item of tangible personal property which has been and is fastened to,
17 connected with or built into real property;

18 (r) the gross receipts from fees or charges made under service or
19 maintenance agreement contracts for services, charges for the providing of
20 which are taxable under the provisions of subsection (p) or (q);

21 (s) on and after January 1, 2005, the gross receipts received from the
22 sale of prewritten computer software and the sale of the services of
23 modifying, altering, updating or maintaining prewritten computer
24 software, whether the prewritten computer software is installed or
25 delivered electronically by tangible storage media physically transferred to
26 the purchaser or by load and leave;

27 (t) the gross receipts received for telephone answering services;

28 (u) the gross receipts received from the sale of prepaid calling service
29 and prepaid wireless calling service as defined in K.S.A. 2014 Supp. 79-
30 3673, and amendments thereto; and

31 ~~(v) the gross receipts received from the sales of bingo cards, bingo~~
32 ~~faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,~~
33 ~~and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,~~
34 ~~2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before~~
35 ~~July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo~~
36 ~~faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,~~
37 ~~and amendments thereto, shall be exempt from taxes imposed pursuant to~~
38 ~~this section; and~~

39 *(w) all sales of charitable raffle tickets in accordance with section 1*
40 *et seq., and amendments thereto, shall be exempt from taxes imposed*
41 *pursuant to this section.*

42 Sec. 19. K.S.A. 2014 Supp. 21-6403 and 79-3603 are hereby
43 repealed.

1 Sec. 20. This act shall take effect and be in force from and after its
2 publication in the Kansas register.