



Oral/In-person Opposition Testimony

Whitney Damron
(785) 224-6666 – wbdamron@gmail.com
On behalf of
Kansas Entertainment, LLC

SB 404 – An Act Concerning Gaming.

Senate Committee on Federal and State Affairs
February 16, 2022

Good morning Chairman Olson and Members of the Committee:

On behalf of Kansas Entertainment, LLC, the owner of Hollywood Casino at Kansas Speedway, I appreciate the opportunity to provide comments today highlighting our concerns with SB 404 that would amend the state's pari-mutuel laws and the Kansas Expanded Lottery Act in a number of ways we find objectionable.

Once again Kansas Entertainment finds itself in front of a legislative committee to remind the Legislature as to the limitations of expanded gaming that were passed in 2007, the support those limitations received from the parties of interest at that time, the contracts that were entered into in order to make those agreements enforceable upon all parties concerned and the extreme financial consequences that inure to the State should these laws be changed, and contracts abrogated.

SB 404 is different in a number of respects to the bills we have seen in years past, yet the same concerns we have shared with this, and other committees remain.

First of all, we would suggest committee members read the provisions of SB 404 upside down, as this proposal stands KELA on its head. Among other things, the bill attempts to redefine "pari-mutuel horse racing" for the purposes of gaming as something referred to as "historic horse racing" or "HHR".

Translation: Not live racing.

As long as the promoter of this bill is trying to redefine "pari-mutuel racing" as something other than a live horse or dog race, why stop with historic horse racing? Why not "Historic Car Racing? Historic Olympic Sports Racing? Historic Camel Racing?" Why racing at all? Why not any of the myriad history of sporting events from the library of Wild World of Sports or anywhere else? It really doesn't matter that it is historical horse racing for their purposes except for the creative thinking behind redefining "pari-mutuel racing" in attempts to fall under the Kansas Parimutuel Racing Act.

The proponents believe that by utilizing data from horse races from bygone days they can magically bring their proposed gaming operations under the Kansas Parimutuel Racing Act and preclude a challenge under the Kansas Expanded Lottery Act (KELA) as pari-mutuel racing is not contrary to the contracts the State entered into with the four casino licensees operating in the State's four gaming zones.

The reality is Historical Horse Racing, on its face, looks like a slot machine, plays like a slot machine, and pays out winnings like a slot machine. The proponents will try to cloud these facts by not showing you how these so called HHR machines work in practice. We urge each member of this committee and the Legislature to look at these machines in action with your own eyes – there are a number of these casinos – excuse me, HHR facilities – operating in Kentucky, Virginia, and several other states. We will be happy to point you to their websites to show these slot machines, excuse me again – HHR machines – in action.

Here are a couple of suggestions:

Google “historic horse racing” and you will find a number of sites and examples of HHR machines or perform the same word search on YouTube, and you will see real examples of HHR machines indistinguishable from a slot machine to the casual observer.

In addition to redefining pari-mutuel racing to include Historic Horse Racing, Kansas Entertainment has a number of additional objections to SB 404, including the following:

- SB 404 attempts to abrogate contracts the State entered into with four state-owned and operated casino operators by limiting any challenges to their HHR & Slots bill to only the operator located within the South-Central Gaming Zone (Kansas Star Casino). We believe any expansion of gaming in Kansas beyond KELA that is embodied in contract with the four casino operators is actionable by any and all casino operators, not simply the one located within the gaming zone where an expansion may occur.
- SB 404 attempts to limit damages to only the privilege fee paid, and interest penalty allowed under KELA by the casino operator located within the South-Central Gaming Zone and precludes the other three casino operators from seeking repayment of such damages. Furthermore, the bill also attempts to preclude the casino operators from seeking additional damages beyond repayment of the privilege fees and interest as allowed under contracts with the Kansas Lottery.
- Once again, the proponent of this legislation suggests that if the State incurs a financial penalty for an expansion of gaming that he would stand for the penalty... of course, he would be repaid for any costs incurred out of not less than 50 percent of the State’s share of gaming revenues received under an expansion allowed by SB 404 until he is repaid. The bill is silent as to the effect of this grand bargain should the State be held liable for repayment of the privilege fees, interest and any additional damages deemed due and payable by the Courts from the three casinos not located in the South-Central Gaming Zone.
- SB 404 would also allow for the establishment of HHR slot parlors in gaming zones where pari-mutuel racing was previously authorized yet not being held (Northeast Gaming Zone and Southeast Gaming Zone) with no requirement that the machines even be located at a pari-mutuel track and no requirement for live racing, only some amount of simulcast horse racing. The Woodlands in the Northeast Gaming Zone is gone, and Camptown Racetrack in the Southeast Gaming Zone hasn’t seen a racing dog in more than 20 years and was never opened under KELA. The full impact of this legislation is not apparent to the casual reader.

In conclusion, Mr. Chairman and Members of the Committee, SB 404 is perhaps the most far-reaching gaming expansion bill we have seen since Mr. Ruffin started asking the Legislature to rewrite the Kansas Expanded Lottery Act that he helped draft and supported in 2007. The bill should be rejected as an insult to the people of Kansas who supported pari-mutuel racing and those who supported destination casinos when the Legislature approved KELA in 2007. Passage of SB 404 will very likely result in the State incurring substantial financial penalties that are unlikely to ever be fully repaid even under the most generous interpretation of this legislation.

On behalf of Kansas Entertainment, LLC, I would be pleased to stand for questions at the appropriate time.

Kansas Entertainment, LLC is a joint-venture partnership of Penn Hollywood Kansas, Inc., and Kansas Speedway Development Corporation, and was selected by the State of Kansas in 2009 to develop a destination casino for the Northeast Kansas Gaming Zone. Since opening in 2012, Hollywood Casino and Kansas Speedway has paid over \$430 million in taxes and fees to the State and local government, provided over \$10 million in charitable contributions and currently employs more than 600 local team members.