

MEMORANDUM

TO: Members, Kansas Racing and Gaming Commission
Interested parties

FROM: Stephen Martino, Executive Director

RE: Proposed Live Horse Racing Purse Supplement Fund regulation

DATE: June 20, 2008

Following is the proposed regulation addressing the split of revenue that will be deposited into the Live Horse Racing Purse Supplement Fund and a memorandum supporting the regulation.

It is our intention to place preliminary approval of the regulation on the July 14 meeting agenda. Any comments regarding this regulation should be received by Wednesday, July 2 in written form. They can be submitted by email to krgc@ksracing.org. Comments are welcome from participants in the Kansas horse racing and breeding industries and the public.

MEMORANDUM

TO: Members, Kansas Racing and Gaming Commission
Executive staff, Kansas Racing and Gaming Commission
Interested parties

FROM: Stephen Martino, Executive Director

SUBJECT: Proposed Live Horse Racing Purse Supplement Fund regulation

DATE: June 20, 2008

One of the anticipated benefits of the Kansas Expanded Lottery Act is an enhancement in the Kansas agro-economy and, specifically, an enhancement for those engaged in greyhound and horse breeding and racing. The enhancements for horses are generated from using 7 percent of net win – money remaining after prizes have been paid – from slot machines placed at pari-mutuel facilities. The Legislature capped the annual horse supplement payout at \$3,750 per machine.

Of the 7 percent, KELA provides that 25 percent of the slot revenue designated for horses be deposited in the existing Kansas Horse Breeding Development Fund and distributed in accordance with KELA. Two percent is reserved for the official horse registering agency. The 73 percent balance remains in the live horse racing purse supplement fund to be distributed in accordance with rules and regulations adopted by the Racing and Gaming Commission with recommendations made by the official registering agency. This distribution of slot machine income is to be “based on the contribution to the Kansas horse racing and breeding industries.”¹

Determining what “the contribution to the Kansas horse racing and breeding industries” has been problematic for the people directly affected. The official registering agency, the Kansas Horsemen’s Association, could not agree upon a recommendation for the commission despite months of requests and prodding by the commission and its staff. The disagreement within the KHA existed along quarter horse vs. thoroughbred fissures that have long existed in the Kansas horse racing community. As a result of the impasse, the KHA requested help from the commission. The commission’s executive director ordered the KHA’s board of directors, which consists equally of quarter horse and thoroughbred representatives, to participate in mediation. Unfortunately, the mediation produced no recommendation for a regulation governing the distribution of the money credited to the horse purse supplement fund. Instead, both breed grounds asked the commission to craft the regulation.

¹ K.S.A. 2007 Supp. 74-8768(a)(3).

At the commission staff's request, quarter horse and thoroughbred representatives submitted their respective proposals for consideration and discussion. Those proposals were reviewed by commission staff, and each breed group met with staff separately April 16, 2008, regarding its proposal and any rebuttal it may have to the other breed's recommendations.

Each recommendation interpreted "contribution" differently. Quarter horse representatives offered a proposal that distributed money based on multiple factors that they believed reflected the contribution each breed would make to the racing and breeding industries in Kansas. The quarter horse representatives suggested that the live horse racing purse supplement fund be distributed as follows: 40 percent based on each breed's proportional share of Kansas bred horse starts; 45 percent based on each breed's proportional share of Kansas certified horses for breeding; and 15 percent based on each breed's proportional share of non-Kansas bred horse starts. It was proposed that these factors be calculated on a rolling seven-year average. This formula would have designated 45 percent of the purse supplement fund for quarter horse purse supplements and 55 percent for thoroughbreds.

The thoroughbred proposal would have distributed funds based on the proportional amount of handle, or money wagered, on all breeds in Kansas. The thoroughbred group suggested codifying in regulation a split based on 2007 live Kansas horse handle, which would have been 73 percent for thoroughbreds, 25 percent for quarter horses and 1 percent each for paint horses and appaloosas.

Ultimately, Commission staff determined that to base the distribution on handle alone would not be in harmony with the statute's express language providing that distribution should be based on contribution to Kansas' racing *and breeding* industries. However, the quarter horse association's proposed formula with imbalanced weighting to the identified factors seemed difficult to justify other than to achieve a desired outcome on behalf of that breed. Staff believes that each factor is important in its own right and would be best represented by equal weighting. Also, staff was not convinced that the proposed seven-year rolling average was in the best interest of any party as it promoted slow change and slower benefits to those breeds that embraced the requirements of the regulation.

Utilizing this compromised approach, the distribution estimate appears as follows:

Three Year Average

	QH		TB		MB	
Kansas Bred Starters	447	0.5286	398	0.4710	0	0.0004
Certified Kansas Bred Horses	29	0.4104	41	0.5755	1	0.0142
Total Non-Kansas Starters	638	0.2898	1550	0.7040	14	0.0062

Kansas Bred Starters	0.33	0.5286	0.18	0.4710	0.157	0.0004	1.31E-04
Certified Kansas Bred Horses	0.33	0.4104	0.14	0.5755	0.192	0.0142	4.72E-03
Total Kansas Starters	0.33	0.2898	<u>0.10</u>	0.7040	<u>0.235</u>	0.0062	<u>2.07E-03</u>
			41%		58%		1%

Commission staff believes this methodology will reflect each breed's level of activity in both racing *and* breeding in Kansas but also provides incentive for non-Kansas-bred horses to run in Kansas at a time when they are needed. Moreover, as each breed increases its involvement in Kansas racing and breeding – achieving the goal of enhancing Kansas' agro-economy – so, too, does the percentage of the overall distribution to that respective breed.

The proposed regulation establishes no requirements about how purse supplements are distributed among Kansas horse meets. Rather, those decisions are delegated to the commission with recommendations expected from each breed group about how distribution will best meet their needs and respond to their constituency. No one track or meet has a monopoly on purse supplements from slot machine revenue. Breed groups are best equipped to determine what distribution of those funds best promotes racing and breeding in Kansas.

Finally, staff believes that a regulation following the methodology will provide incentive for all breeds, including minor breeds such as paints, appaloosas and Arabians, to increase their activity in horse racing and breeding in Kansas.

112-13-___. The Live Horse Racing Purse Supplement Fund. (a) The balance of the money credited to the fund that is subject to distribution pursuant to K.S.A. 2007 Supp. 74-8767(a)(3) shall be apportioned to each horse breed based on the following formula:

(1) 33 percent to registered Kansas bred registered starters at Kansas race tracks based on the average percentage of each breed's participation for the previous three calendar years;

(2) 33 percent to certified Kansas stallions and mares based on the average percentage of each breed's participation for the previous three calendar years;

(3) 33 percent to non-Kansas bred starters at Kansas race tracks based on the average percentage of each breed's participation for the previous three calendar years.

(b) All payments proposed according to K.S.A. 2007 Supp. 74-8767(a)(3) based on the contribution to the Kansas horse racing and breeding industries may be recommended by each respective breed group and shall be approved by the commission.

(c) The annual distribution formula shall be established by the executive director no later than March 1 of each distribution year. Authorized by K.S.A. 2007 Supp. 74-8747, K.S.A. 2007 Supp. 74-8767, K.S.A. 74-8829 and 74-8830; implementing K.S.A. 2007 Supp. 74-8747, K.S.A. 2007 Supp. 74-8767, K.S.A. 74-8829, K.S.A. 74-8830; effective _____, 2008.