

LEGISLATIVE BILL 259

Approved by the Governor May 26, 1983

Introduced by Miscellaneous Subjects Committee,
Hefner, 19, Chairperson; Lundy, 36;
Fenger, 45; Hannibal, 4; Barrett, 39;
V. Johnson, 8; Von Minden, 17;
DeCamp, 40

AN ACT relating to gambling; to amend sections 28-1101, 28-1105, and 28-1113 to 28-1116, Reissue Revised Statutes of Nebraska, 1943, and sections 9-124, 9-125, 9-127, 9-133, 9-141 to 9-145, 9-149, 9-150, 9-153, 9-156, 9-158, 9-160, 9-162 to 9-165, 9-168 to 9-170, and 9-172 to 9-174, Revised Statutes Supplement, 1982; to change provisions relating to gambling; to provide for the regulation of bingo, lottery by the sale of pickle cards, and other lotteries as prescribed; to change intent; to define and redefine terms; to create a commission; to provide powers and duties; to eliminate powers and duties of the State Treasurer; to rename an act; to impose a tax; to change provisions relating to certain taxes; to harmonize provisions; to provide penalties; to provide severability; and to repeal the original sections, and also section 9-130, Revised Statutes Supplement, 1982.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 9-124, Revised Statutes Supplement, 1982, be amended to read as follows:

9-124. (1) The purpose of sections 9-124 to 9-173 and 28-1113 the Nebraska Bingo and Pickle Card Regulatory Act is to protect the health and welfare of the public, to protect the economic welfare and interests interest in pickle card sales and winnings and in the fair play of bingo participants, to insure that the profits derived from the operation of bingo and any lottery by the sale of pickle cards are accurately reported in order that their its revenue-raising potential be fully exposed, to insure that profits from bingo and pickle card sales are used for legitimate

purposes, and to prevent the purposes bingo and any lottery by the sale of pickle cards are to be used for from being subverted by improper elements. Bingo and any lottery by the sale of pickle cards shall be played and conducted only by those methods permitted in the Nebraska Bingo and Pickle Card Regulatory Act. No other form, means of selection, or method of play shall be authorized or permitted.

(2) The intent of sections 9-424 to 9-473 and 28-445 the Nebraska Bingo and Pickle Card Regulatory Act is that, (a) if facilities used for bingo occasions are leased or rented pursuant to the provisions of sections 9-424 to 9-473 and 28-445 the Nebraska Bingo and Pickle Card Regulatory Act, they shall be leased or rented at not more than their fair market value, (b) no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation, and (c) rental or lease agreements entered into for facilities be separate and apart from lease and rental agreements for bingo equipment and supplies.

(3) The intent of sections 9-424 to 9-473 and 28-445 the Nebraska Bingo and Pickle Card Regulatory Act is that if equipment and supplies used for bingo occasions are leased or rented, they shall be leased or rented at not more than their fair market value and that no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation.

Sec. 2. That section 9-125, Revised Statutes Supplement, 1982, be amended to read as follows:

9-125. For purposes of sections 9-424 to 9-473 and 28-445 the Nebraska Bingo and Pickle Card Regulatory Act, unless the context otherwise requires, the definitions found in sections 9-126 to 9-140 and sections 5 to 14 of this act shall be used.

Sec. 3. That section 9-127, Revised Statutes Supplement, 1982, be amended to read as follows:

9-127. Bingo shall mean that form of gambling in which:

(1) The winning chances are determined by a random selection drawing of a subset of numbers or designators or objects numbered, lettered, or otherwise designated by some medium among a total set of numbers or designators or objects numbered, lettered, or otherwise designated by some medium; and

(2) The card or cards held by the player by which a winner or winners are ascertained is sold, rented, or used only at the time and place of the gambling activity.

Sec. 4. That section 9-133, Revised Statutes Supplement, 1982, be amended to read as follows:

9-133. Licensed organization shall mean an

organization licensed under the provisions of sections 9-424 to 9-473 and 28-4145 the Nebraska Bingo and Pickle Card Regulatory Act to conduct bingo.

Sec. 5. (1) Lottery by the sale of pickle cards shall mean any gambling scheme in which participants pay or agree to pay something of value for a pickle card. Any lottery by the sale of pickle cards shall be conducted pursuant to and in accordance with the provisions of the Nebraska Bingo and Pickle Card Regulatory Act.

(2) Pickle card shall mean any disposable card, board, or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing tabs from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof.

(3) The winning cards, boards, or tickets in any lottery by the sale of pickle cards shall be determined by a comparison of those numbers, letters, symbols, or configurations, or combination thereof, which are revealed by removal of the tabs from the pickle cards, to a set of numbers, letters, symbols, or configurations, or combination thereof, which has been previously specified on each pickle card as a winning combination. The winning chances of any pickle card shall not be determined or otherwise known until after its purchase and only upon opening, pulling, detaching, or otherwise removing the tabs to clearly reveal the combination. The winning chances shall be determined by and based upon an element of chance.

(4) Any person possessing a winning pickle card shall receive the appropriate prize or value previously determined and specified on each pickle card for that winning combination.

(5) All pickle cards shall bear the name of the nonprofit organization conducting the lottery by the sale of pickle cards.

(6) Pickle card shall include any card known as a pickle ticket, pickle, break-open, pull-tab, pull-tab board, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name.

(7) Pickle card shall not mean or include: (a) Any regular bingo card as defined in section 9-137; (b) any special bingo card as defined in section 9-139; (c) any racing ticket or wager in connection with any horse race conducted pursuant to Chapter 2, article 12; or (d) any other kind of gambling, lottery, raffle, or gift enterprise ticket or scheme authorized pursuant to Chapter 28, article 11.

Sec. 6. Commission shall mean the Nebraska Bingo and Pickle Card Regulatory Commission.

Sec. 7. The gross proceeds of a pickle card unit shall mean the total possible receipts received from the sale of all pickle cards in any pickle card unit.

Sec. 8. Distributor shall mean any person, licensed pursuant to the Nebraska Bingo and Pickle Card Regulatory Act, who sells or distributes bingo supplies and equipment and pickle cards in units in this state.

Sec. 9. Unit shall mean a complete set of pickle cards, which consists of all winning and losing cards in a particular unit, set, or scheme for a lottery by the sale of pickle cards, in the receptacle or box in and with which the unit of pickle cards is sold by a distributor.

Sec. 10. Structure or building shall mean, but not be limited to, any premises as defined in section 9-135, facility, or property on which bingo is played.

Sec. 11. Suspend shall mean to cause a temporary interruption of all rights and privileges of an annual license.

Sec. 12. Cancel shall mean to discontinue all rights and privileges of an annual license.

Sec. 13. Revoke shall mean to permanently void and recall all rights and privileges of a license.

Sec. 14. Annual license shall mean any license issued pursuant to section 9-142 or 9-143.

Sec. 15. That section 9-141, Revised Statutes Supplement, 1982, be amended to read as follows:

9-141. (1) Any organization existing for charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purpose, to which contributions are deductible for federal or state income tax purposes, may apply to the State Treasurer ~~commission~~ for a license to conduct bingo or a license to conduct a lottery by sale of pickle cards.

(2) In addition to those organizations enumerated in subsection (1) of this section, any nonprofit organization holding a certificate of exemption under the Internal Revenue Code section 501 or whose major activities are conducted for charitable and community betterment purposes may apply for a license to conduct a lottery by sale of pickle cards.

(3) (2) Prior to applying for a any license, an organization listed under subsection (1) or (2) of this section shall:

(a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization;

(b) Have at least ten members in good standing;

(c) Conduct activities within this state in

addition to the conduct of bingo and lottery by sale of pickle cards;

(d) Be authorized by its constitution, articles, charter, or bylaws to further in this state a lawful purpose;

(e) Operate without profit to its members, and no part of the net earnings of such organization shall inure to the benefit of any private shareholder or individual;

(f) Have been in existence for five years immediately preceding its application for a license, and shall have had during that five-year period a bona fide membership actively engaged in furthering a lawful purpose; and

(g) None of the provisions of this section shall prohibit senior citizens groups from organizing and conducting bingo pursuant to sections 9-124 to 9-173 and 20-1115 the Nebraska Bingo and Pickle Card Regulatory Act when bingo is played only by members of the senior citizens groups conducting the bingo. For purposes of this section, senior citizens group shall mean any organization whose membership consists entirely of persons who are at least sixty-two years old.

(4) Each valid bingo license issued prior to the effective date of this act shall terminate thirty days after the effective date of this act.

Sec. 16. That section 9-142, Revised Statutes Supplement, 1982, be amended to read as follows:

9-142. Each applicant for a license to conduct bingo or lottery by sale of pickle cards shall file with the commission treasurer an application on a form prescribed by the treasurer commission. The

(1) Each application shall include:

(a) ~~(1)~~ The name and address of the applicant;

(b) ~~(2)~~ Sufficient facts relating to the incorporation or organization of the applicant to enable the commission treasurer to determine if the applicant is eligible for a license under this section;

(c) ~~(3)~~ The name and address of each officer of the applicant organization;

(d) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for the proper utilization of the gross receipts derived from the conduct of bingo or lottery by sale of pickle cards;

(e) A roster of members, if the commission deems it necessary and proper; and

(f) Other information which the commission deems necessary.

(2) In addition to the information required in subdivision (1) of this section, each application for a license to conduct bingo shall include:

(a) (4) The place and date of each bingo occasion proposed to be conducted during the effective period of the license;

(b) (5) The name and address of the owner of the premises in which bingo will be conducted and the approximate capacity of the premises;

(c) (6) A list of expenses proposed to be incurred in connection with the conduct of bingo, the name and address of each payee, the purposes for which each payee is proposed to be paid, and the estimated amount of each payment;

(d) (7) The name, date of birth, and address of each supervising member for each bingo occasion who shall be a bona fide and active member of the applicant organization and of good moral character and one or more of whom shall be responsible for the conduct of bingo games at each bingo occasion;

(e) (8) The name of any licensed organization cosponsoring any bingo occasion; and

(9) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for the proper utilization of the gross receipts derived from the conduct of bingo;

(f) (10) The specific purposes to which the profits from the conduct of bingo are to be devoted;

(11) A roster of members, if the treasurer deems it necessary and proper; and

(12) Other information which the treasurer deems necessary;

Sec. 17. That section 9-143, Revised Statutes Supplement, 1982, be amended to read as follows:

9-143. All bingo licenses and licenses to conduct a lottery by sale of pickle cards may be renewed annually and each annual application for a license shall be accompanied by:

(1) A sworn statement of each designated supervising member that he or she will be responsible for compliance with appropriate rules and regulations; for each bingo occasion which he or she supervises;

(2) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, salary, profits, compensation, reward, or recompense will be paid to any person or organization except payments sanctioned by the commission treasurer and that all profits will be spent for a lawful purpose; and

(3) A fifteen dollar license fee, five dollars for an annual license for each designated supervising member, and five dollars for an annual license for each designated member responsible for the proper utilization of gross receipts.

Sec. 18. That section 9-144, Revised Statutes

Supplement, 1982, be amended to read as follows:

9-144. No bingo occasion other than a limited period bingo shall be conducted at a facility other than a facility except in a structure owned by the licensed organization or at a facility or in a structure leased or rented by the licensed organization pursuant to the requirements for such arrangements set forth in sections 9-424 to 9-473 and 28-445 the Nebraska Bingo and Pickle Card Regulatory Act. No licensed organization may conduct a bingo occasion outside of the county in which the licensed organization has its principal office.

Sec. 19. That section 9-145, Revised Statutes Supplement, 1982, be amended to read as follows:

9-145. Any person conducting bingo shall be a member or officer of the organization holding the bingo license and shall not receive any compensation, directly or indirectly, for any duties connected with conducting bingo. No compensation shall be paid to any other person for the conduct of, or in connection with, a bingo occasion, either directly or indirectly, except for security services.

Sec. 20. That section 9-149, Revised Statutes Supplement, 1982, be amended to read as follows:

9-149. A licensed organization may purchase or rent bingo supplies or equipment from any distributor, another licensed organization or from any person who sells or distributes bingo supplies and equipment. Such purchase or rental shall be for the fair market value of the supplies or equipment and shall not include any services rendered.

Sec. 21. That section 9-150, Revised Statutes Supplement, 1982, be amended to read as follows:

9-150. No person under eighteen years of age shall play any bingo game or participate in any way in any lottery by the sale of pickle cards. No such person shall be present at a bingo occasion unless such person's parent or legal guardian is present and approves such person's presence during the bingo occasion, except that any licensed the organization may prohibit the presence of any person under eighteen years of age from being present at its bingo occasion.

Sec. 22. That section 9-153, Revised Statutes Supplement, 1982, be amended to read as follows:

9-153. No expense shall be incurred or amounts paid in connection with the conduct of bingo by an organization, except those reasonably expended for bingo supplies and equipment, prizes, utilities used during the bingo occasion, security services used during the bingo occasion, bingo license fees, taxes related to bingo; and the rental or lease of any structure, facilities and bingo equipment and supplies rented or leased pursuant to sections 9-424 to 9-473 and 28-445 the Nebraska Bingo and Pickle Card Regulatory Act.

Sec. 23. That section 9-156, Revised Statutes Supplement, 1982, be amended to read as follows:

9-156. No organization shall lease any premises with rental payments based on a percentage of receipts or profits from bingo or on the number of persons participating in any bingo occasion. Rent shall be at a fixed monthly rate not subject to change during the term of the lease. All bingo occasions shall be conducted only by the licensee who holds such lease. All lease agreements shall be subject to approval by the treasurer commission.

Sec. 24. That section 9-158, Revised Statutes Supplement, 1982, be amended to read as follows:

9-158. Bingo gross profits shall be segregated from other revenue of an organization and placed in a separate checking account. Separate books of its bingo operations shall be maintained by an organization. Records required by sections 9-424 to 9-473 and 20-4445 the Nebraska Bingo and Pickle Card Regulatory Act shall be preserved for two years. Any law enforcement agency, or other agency of government, shall have the authority to investigate the bingo records of an organization at any time. Organizations shall, upon request, deliver their bingo records to the treasurer commission or its his or her duly appointed agents for investigation.

Sec. 25. That section 9-160, Revised Statutes Supplement, 1982, be amended to read as follows:

9-160. An organization shall file the following with the treasurer commission before conducting a bingo occasion, and on an annual basis thereafter:

(1) U.S. Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, Form 990, if the organization is required to file such form with the Department of the Treasury;

(2) U.S. Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, Form 990-T, if the organization is required to file such form with the Department of the Treasury; and

(3) A report signed by an officer of the organization and notarized, which contains the following information:

(a) A roster of the membership of the organization, if required by the treasurer commission;

(b) The address of the organization;

(c) The period of time the organization has been in existence;

(d) The purpose for which the organization is organized;

(e) Whether the group is authorized and existing under the laws of the state;

(f) The names and home addresses of all

officers and the bingo chairperson chairman of the organization;

(y) The location where the games are to be held, including the floor, the name of the owner of the property where the games are to be held, and a copy of the lease agreement, if any, and such lease agreement shall be subject to approval by the treasurer commission;

(h) The days of the week bingo is to be played;

(i) The date of the first occasion and the date of the last occasion;

(j) The hours when the games will be played;

(k) The price to be charged per person for each card;

(l) The minimum number of players per game;

(m) The nature of the prizes, money, or merchandise;

(n) The name of the member who will have charge of distribution of the profits of the game;

(o) Whether any refreshments will be served or allowed to be consumed during the time the games are being conducted and, if so, whether there will be a charge for such refreshments; and

(p) The terms and conditions of all rental or lease agreements entered into for facilities used for bingo or for bingo supplies and equipment.

The information required by this section shall be kept current. An organization shall notify the commission treasurer within thirty days if any information in the report is no longer correct and shall supply the correct information including all information required pursuant to subdivision (p) of subsection (3) of this section except that nothing in this section shall allow a licensed organization to hold a bingo game or conduct a bingo occasion on any day, at any time, or in any manner different from that described in its most recent filing with the treasurer commission.

Sec. 26. That section 9-162, Revised Statutes Supplement, 1982, be amended to read as follows:

9-162. One of the following methods shall be used in securing Only the following means of random selection of the numbers, letters, or other designators called from which winners are determined shall be used in the conduct of the any bingo game:

(1) An electrically operated blower machine containing balls which the operator may take from the air one at a time while the blower is in operation, or which provides a trap or other mechanical means for automatically catching not more than one ball at a time while the blower is in operation; or

(2) A mechanically or manually operated cage which provides a trap or other mechanical means for

automatically catching not more than one ball at a time while the cage is in operation; or

(3) A computer or other electronic selection process which allows random selection on the condition that in every game, each designator shall be subject to selection.

Sec. 27. That section 9-163, Revised Statutes Supplement, 1982, be amended to read as follows:

9-163. Bingo games shall be conducted only in the following manner:

(1) All bingo cards used in a regular bingo game shall be purchased at a price established before the start of the regular bingo session;

(2) At any bingo occasion except limited period bingo, any player buying or renting an extra regular card is entitled to use such card in all regular games conducted after he or she buys or rents the card;

(3) Each person admitted to a bingo occasion, other than limited period bingo, is shall be furnished with a regular bingo card enabling him or her to play in all regular bingo games conducted at such bingo occasion;

(4) The value of any merchandise prize awarded in a bingo game shall be its current retail price. The current retail price of merchandise prizes donated to a licensed organization shall not be reported as an expenditure in its financial statement of bingo operations. No merchandise prize shall be redeemable or convertible into cash directly or indirectly by the licensed organization;

(5) The licensed organization shall keep an accurate, separate count of the number of regular bingo cards, extra regular cards, and special bingo cards which are sold, rented, or used. Such information shall be available for inspection at the close of the bingo occasion;

(6) Method of play:

(a) The method of play in any bingo game and the utilization of bingo equipment and supplies shall be such that each player is afforded an equal opportunity to win;

(b) The objects For any means of selection permitted by subdivision (1) or (2) of section 9-162, the designators to be drawn shall be essentially the same in size, color, shape, weight, balance, and all other characteristics, so that at all times during the conduct of bingo, each object designator possesses the capacity for equal agitation with any other object within the receptacle;

(c) All objects designators within the total set from which the drawing selection is to be made shall be present in the receptacle subject to random selection at the beginning of each bingo game;

(d) The announcement of all objects drawn designators selected shall be clearly audible to the players present;

(e) When more than one room is used for any one bingo game, the receptacle or electronic selection device and the caller and any assistant shall be in the room where the greatest number of players are present, and all numbers, letters, or other designators shall be announced in a manner clearly audible to the players in each room;

(f) Once removed, no object designator shall be returned to the receptacle until after the conclusion of the game in which any means of selection permitted by subdivision (1) or (2) of section 9-162 are used; and

(g) The receptacle or electronic selection device and the caller shall be visible to the majority of players at all times;

(7) The particular arrangement of numbers, letters, or other designators required to be covered in order to win and the amount of the prize for each any bingo game shall be clearly described and audibly announced to the players immediately before each game. The amount of the prize for each any bingo game also shall be posted where the regular bingo cards are distributed;

(8) Verification of winner:

(a) The numbers, letters, or other designators appearing on the winning card at the time a winner is determined shall be verified in such a manner that all present can hear; and

(b) At the time a winner is determined, any player may call for a verification of all of the objects remaining in the receptacle and designators not yet drawn selected. This verification shall be made in the immediate presence of the supervising member and at least one disinterested player;

(9) When more than one player is found to be the winner on the call of the same number, letter, or other designator in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among the winners. When equal division of a merchandise prize is not possible, identical substitute prizes whose aggregate retail value is approximately equal to that of the designated prize shall be awarded; and

(10) No licensed organization shall permit any person who is conducting or assisting in the conduct of bingo on a bingo occasion to participate as a player on that occasion.

Sec. 28. That section 9-164, Revised Statutes Supplement, 1982, be amended to read as follows:

9-164. A copy of all information filed with the commission treasurer pursuant to sections 9-142, 9-143, 9-158, and 9-159 shall also be filed with the

county clerk of the county in which the bingo is to be conducted and if the bingo is conducted within the limits of an incorporated city or village, a copy shall also be filed with the city or village clerk. Such information shall be filed within five days after its filing with the treasurer commission.

Sec. 29. That section 9-165, Revised Statutes Supplement, 1982, be amended to read as follows:

9-165. (1) The commission shall collect a state tax of six per cent on the gross receipts received from the conducting of bingo within the state. Such tax shall be paid to the commission and credited to the state General Fund. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with any other reports as may be required by the commission.

(2) Any city or village is hereby directed to impose a tax of four five per cent on the gross receipts received from the conducting of bingo within such city or village. Where bingo is conducted within the limits of any incorporated city or village the county within which such bingo is conducted shall also impose a tax of five per cent on the gross receipts from the conducting of such bingo. Where bingo is conducted outside the limits of any incorporated city or village, the county in which such bingo is conducted shall impose a tax of four ten per cent on the gross receipts from the conducting of bingo outside the corporate limits of such city or village. Such tax shall be credited to the general fund of the county, and city, or village, if the bingo was conducted within the limits of such city or village, which issued the permit. Such tax shall be paid to the clerk of the political subdivision imposing the tax and the clerk shall transmit the tax to the treasurer of such subdivision. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with such reports as may be required by the political subdivision imposing the tax.

Sec. 30. That section 9-168, Revised Statutes Supplement, 1982, be amended to read as follows:

9-168. The proceeds from the tax levied pursuant to subsection (2) of section 9-165, shall be used to pay for the costs of regulation and enforcement of sections 9-424 to 9-473 and 28-4445 the Nebraska Bingo and Pickle Card Regulatory Act.

Sec. 31. That section 9-169, Revised Statutes Supplement, 1982, be amended to read as follows:

9-169. The commission treasurer shall adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out sections 9-424 to 9-473 and 28-4445 the Nebraska Bingo and Pickle Card Regulatory Act.

Sec. 32. That section 9-170, Revised Statutes Supplement, 1982, be amended to read as follows:

9-170. Any Except when another penalty is specifically provided, any person, licensee, distributor, qualified organization, or employee or agent of any licensee, distributor, or qualified organization who shall violate any provision of sections 9-124 to 9-173 and 28-1445 the Nebraska Bingo and Pickle Card Regulatory Act shall be guilty of a Class II misdemeanor. Any licensed organization guilty of violating any provision of sections 9-124 to 9-173 and 28-1445 the Nebraska Bingo and Pickle Card Regulatory Act more than once in a twelve-month period shall have its license revoked, for a period of not less than three months.

Sec. 33. That section 9-172, Revised Statutes Supplement, 1982, be amended to read as follows:

9-172. Any person in this state, including any law enforcement official, who has cause to believe that (1) any licensed organization, (2) any lessor of facilities or bingo equipment and supplies used for a bingo occasion, (3) any person conducting any game of bingo, (4) any employee or agent of such licensed organization, lessor, or person, or (5) any person acting in concert with such licensed organization, lessor, or person, or (6) any person in connection with a lottery by the sale of pickle cards has engaged in or is engaging in any conduct in violation of the Nebraska Bingo and Pickle Card Regulatory Act or has aided or is aiding another in any conduct in violation of the Nebraska Bingo and Pickle Card Regulatory Act may commence a civil action in any district court of this state.

Sec. 34. That section 9-173, Revised Statutes Supplement, 1982, be amended to read as follows:

9-173. Sections 9-124 to 9-176 and sections 5 to 14 and 42 to 61 of this act shall be known as and may be cited as the Nebraska Bingo and Pickle Card Regulatory Act.

Sec. 35. That section 9-174, Revised Statutes Supplement, 1982, be amended to read as follows:

9-174. In any civil action commenced pursuant to section 9-172 a court may allow:

(1) A temporary restraining order or injunction, with or without a bond as the court may direct, prohibiting a party to the action from continuing or engaging in such conduct, aiding in such conduct, or doing any act in furtherance of such conduct;

(2) A declaration that the conduct by a licensed organization or employee or agent of a licensed organization, which is a party to the action, constitutes a violation of the Nebraska Bingo and Pickle

Card Regulatory Act and a determination of the number and times of violations for certification to the treasurer commission for appropriate license revocation purposes:

(3) A permanent injunction under principles of equity and on reasonable terms;

(4) An accounting of the profits, earnings, or gains resulting directly and indirectly from such violations, with a distribution of such profits, earnings, or gains to all licensed organizations existing at the time of such violations which apply to the court and show that they suffered monetary losses by reason of such violations and with distribution of any remaining profits, earnings, or gains to the state; and

(5) Reasonable attorneys' fees and court costs.

Sec. 36. That section 28-1101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1101. As used in this article, unless the context otherwise requires:

(1) A person advances gambling activity if, acting other than as a player, he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but shall not be limited to conduct directed toward (a) the creation or establishment of the particular game, contest, scheme, device, or activity involved or (b) the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor;

(2) Bookmaking shall mean advancing gambling activity by unlawfully accepting bets from members of the public as a business, upon the outcome of future contingent events;

(3) A person profits from gambling activity if, other than as a player, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(4) A person engages in gambling if he or she bets something of value upon the outcome of a future event, which outcome is determined by an element of chance, or upon the outcome of a game, contest, or election, or conducts or participates in any lottery or scheme not authorized or conducted pursuant to sections 28-1114 to 28-1116 and section 41 of this act, or conducts or participates in any bingo or lottery by the sale of pickle cards not authorized or conducted pursuant to the Nebraska Bingo and Pickle Card Regulatory Act, but a person does not engage in gambling by:

(a) Entering into a lawful business

transaction;

(b) Playing an amusement device or a coin-operated mechanical game which confers as a prize an immediate, unrecorded right of replay not exchangeable for something of value;

(c) Conducting or participating in a prize contest; or

(d) Conducting or participating in a contest, lottery, raffle, or gift enterprise conducted in accordance with the provisions of sections 28-1113 to 28-1116 and section 41 of this act; or

(e) Participating in or conducting bingo or participating in or conducting a lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Pickle Card Regulatory Act;

(5) Gambling device shall mean any device, machine, paraphernalia, writing, paper, instrument, article, or equipment that is used or usable for engaging in gambling, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets Bingo supplies and equipment as defined in section 9-129, pickle cards as defined in section 5 of this act, pickle card units as defined in section 9 of this act, and tickets, cards, and other items used in the playing phases of schemes defined in sections 28-1113 to 28-1116 and section 41 of this act, are not gambling devices within this definition;

(6) Lottery shall mean a gambling scheme in which (a) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones, (b) the winning chances are to be determined by a drawing or by some other method based on an element of chance, and (c) the holders of the winning chances are to receive something of value;

(7) Something of value shall mean any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service or entertainment; and

(8) Prize contest shall mean any competition in which one or more competitors are awarded something of value as a consequence of winning or achieving a certain result in the competition; and (a) the value of such awards made to competitors participating in the contest or upon the amount of consideration, if any, paid for the opportunity to participate in the contest or upon chance and (b) the value or identity of such awards to be made to competitors is published before the competition begins;

(9) Gift enterprise shall mean a game in which prizes are offered and awarded to participants in such games when no payment is required for participation therein. For business promotion purposes only, such games may require as a condition of participation the evidence of the purchase of a product or other property, except that the price charged for such product or other property shall be no greater than it would be if no game were involved; and

(10) Raffle shall mean any gambling scheme in which: (a) Participants pay or agree to pay something of value for an opportunity to win something of value; (b) winning opportunities are represented by tickets or cards differentiated by numbers sequentially enumerated; and (c) winners are determined by a random drawing of the tickets or cards. Nothing in this subdivision shall be construed to include any bingo as defined in section 9-127 nor any lottery by the sale of pickle cards as defined in section 5 of this act.

Sec. 37. That section 28-1105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1105. (1) A person commits the offense of possession of gambling records if, other than as a player, he or she knowingly possesses any writing, paper, instrument, or article which is:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information; or

(b) Of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise or other scheme not conducted pursuant to sections 28-1114 to 28-1116, section 41 of this act, and the Nebraska Bingo and Pickle Card Regulatory Act and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information not permitted by sections 28-1114 to 28-1116, section 41 of this act, and the Nebraska Bingo and Pickle Card Regulatory Act.

(2) Possession of gambling records in the first degree is a Class II misdemeanor.

Sec. 38. That section 28-1113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1113. Nothing in this article shall be construed to:

(1) Apply to or prohibit wagering on the results of horse races by the pari-mutuel pari-mutuel or certificate method when conducted by licensees within

the race track enclosure at licensed horse race meetings; or

(2) Prohibit or punish the playing of bingo when conducted by any licensee operating pursuant to Chapter 9, article 4 the Nebraska Bingo and Pickle Card Regulatory Act or prohibit or punish conducting or participating in any lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Pickle Card Regulatory Act.

Sec. 39. That section 28-1114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1114. Any person engaged in a bona fide business, with an established place of business in this state or, in the case of a foreign corporation, with an established place of business in another state may, solely for the purpose of business promotion and not for profit to such person; conduct a gift enterprise, contests and lotteries in which prizes are offered and awarded to participants in such contests and lotteries when no fee is required for participation therein: Such contests and lotteries may require, as a condition of participation; evidence of purchase of a product or other property; but the price charged for such product or other property shall be no greater than it would be if no contest were involved.

Sec. 40. That section 28-1115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1115. Any Except as provided in section 60 of this act, any nonprofit organization holding a certificate of exemption under the Internal Revenue Code, section 501, or whose major activities, exclusive of conducting lotteries, raffles, or gift enterprises, are conducted for charitable and community betterment purposes, may conduct lotteries, raffles, and gift enterprises. The gross proceeds of such activities may be used solely for charitable or community betterment purposes, awarding of prizes to participants, and operating such lottery, raffle, or gift enterprise. Not when the gross proceeds are greater than one thousand dollars, not less than sixty-five per cent of the gross proceeds shall be used for the awarding of prizes and not more than twenty-five per cent of that amount remaining after the awarding of prizes shall be used to pay the expenses of operating such scheme. For the purpose of this section, the expenses of operating a lottery shall include (1) all costs associated with printing or manufacturing any items to be used or distributed to participants such as tickets or other paraphernalia, (2) all office expenses, (3) all promotional expenses, (4) all salaries of persons employed to operate the scheme, (5) any rental or lease

expense, and (6) any fee paid to any person associated with the operation of a lottery, raffle, or gift enterprise, except that prizes awarded to participants shall not be included within the twenty-five per cent limitation contained in this section. Each nonprofit organization conducting a lottery shall have its name clearly printed on each lottery ticket used in such lottery. No such ticket shall be sold unless such name is so printed thereon. Each nonprofit organization conducting a lottery shall keep a record of all locations where its lottery tickets are sold. All tickets must bear a number, which numbers must shall be in sequence.

Sec. 41. The gross proceeds of any lottery authorized by section 28-1116 shall be used solely for community betterment purposes, awarding of prizes to participants, payment of taxes pursuant to section 61 of this act, and operating such lottery. Not less than sixty-five per cent of the gross proceeds shall be used for the awarding of prizes and not more than ten per cent of the gross proceeds shall be used to pay the expenses of operating such scheme. For the purpose of this section, the expenses of operating a lottery shall include (1) all costs associated with printing or manufacturing any items to be used or distributed to participants such as tickets or other paraphernalia, (2) all office expenses, (3) all promotional expenses, (4) all salaries of persons employed to operate the scheme, (5) any rental or lease expense, and (6) any fee paid to any person associated with the operation of the lottery, except that prizes awarded to participants shall not be included within the ten per cent limitation contained in this section, nor the payment of any taxes pursuant to section 61 of this act. Each county, city, or village conducting a lottery shall have its name clearly printed on each lottery ticket used in such lottery. No such ticket shall be sold unless such name is so printed thereon. Each county, city, or village conducting a lottery shall keep a record of all locations where its lottery tickets are sold. All tickets shall bear a number, which numbers shall be in sequence.

Sec. 42. Any organization licensed to conduct bingo or licensed to conduct a lottery by sale of pickle cards may conduct a lottery by the sale of pickle cards and purchase units for such purposes from a distributor and use the proceeds from the sale of the pickle cards for a lawful purpose.

Sec. 43. Any applicant for a distributor's license, including renewal thereof, shall file an application with the commission on a form prescribed by the commission. Each application shall be accompanied by a registration fee in the amount of twenty-five dollars, together with a license fee of one thousand

five hundred dollars. At a minimum, the application shall include the name and address of the applicant, including all shareholders if the applicant is a corporation; the location of its office or business; a current list, if appropriate, of those organizations within the state to whom the applicant is selling bingo supplies and equipment or pickle card units. All applications shall include a sworn statement by the applicant or the appropriate officer thereof that the applicant shall comply with all provisions of the Nebraska Bingo and Pickle Card Regulatory Act and all rules and regulations adopted and promulgated under such act.

No person shall be issued a distributor's license if not doing business or authorized to do business in this state.

All licenses issued pursuant to this section shall expire on March 31st of each year.

Renewal of any license issued pursuant to this section shall be initiated no less than forty-five days prior to the expiration of the license.

Sec. 44. No person or organization other than those qualifying under section 42 of this act shall be permitted to conduct a lottery by the sale of pickle cards in this state. Any person violating this section shall be guilty of a Class II misdemeanor.

Sec. 45. No expense shall be incurred or amounts paid in connection with a lottery by the sale of pickle cards by an organization conducting the same, except those expended for pickle card units, taxes related to pickle cards, and prizes.

Sec. 46. The gross proceeds of any lottery by the sale of pickle cards shall be segregated from other revenue of any organization conducting the lottery and placed in a separate account. Separate records shall be maintained by any organization conducting a lottery by the sale of pickle cards. Records required by the Nebraska Bingo and Pickle Card Regulatory Act shall be preserved for at least two years. Any law enforcement agency or other agency of government shall have the authority to investigate the records relating to lotteries by the sale of pickle cards and profits therefrom at any time. Organizations shall, upon request, deliver all such records to the commission for investigation.

Sec. 47. An organization conducting a lottery by the sale of pickle cards shall report annually to its membership its gross proceeds, its profits from pickle card sales, and the itemized distribution of such profits resulting from conducting any lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Pickle Card Regulatory Act by such organization.

Sec. 48. A distributor shall maintain records

of total unit sales and, within thirty days after the end of the calendar quarter, report to the commission, on a form prescribed by the commission, the total number of units sold by such distributor for each quarter. The report shall include the total number of pickle cards in each unit, the price for which such cards will be sold by the purchasing organization, and any other information the commission deems necessary.

Sec. 49. Accompanying the quarterly reports required in section 48 of this act, the distributor shall pay to the commission the following taxes: (1) Two dollars per unit on each unit sold by the distributor; and (2) an amount equal to two per cent of the pickle card gross proceeds of each pickle card unit sold by the distributor, computed by using the price for which all pickle cards in the unit will be sold by the purchasing organizations. Such tax shall be credited to the General Fund of the state.

Sec. 50. The gross proceeds of any lottery by sale of pickle cards shall be used solely for lawful purposes, awarding of prizes, remission of proper taxes related to pickle cards, and the cost of each unit. Not less than sixty-five per cent of the pickle card proceeds from any pickle card unit shall be used for the awarding of prizes. Each nonprofit organization selling pickle cards shall have its name printed clearly on each pickle card. No pickle card shall be sold unless such name is so printed thereon. Each nonprofit organization conducting a lottery by the sale of pickle cards shall keep a record of all locations where its pickle cards are sold.

Sec. 51. No distributor shall sell any pickle card units except to an organization qualified to conduct a lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Pickle Card Regulatory Act. No pickle cards shall be sold by a distributor except in the form of pickle card units. No pickle card unit shall be sold by a distributor without the name and license number of the organization conducting the lottery by the sale of pickle cards on each pickle card in the unit. Each unit shall bear a unique number. Each pickle card in a unit shall bear the number of that particular unit.

Sec. 52. The commission shall have the following powers, functions, and duties:

(1) To revoke for cause any bingo or pickle card lottery license or any distributor's license;

(2) To cancel for cause any bingo or pickle card lottery license or any distributor's license;

(3) To suspend for cause any bingo or pickle card lottery license or any distributor's license;

(4) To enter or to authorize any law enforcement officer to enter at any time upon any

licensed bingo premises to determine whether any of the provisions of the Nebraska Bingo and Pickle Card Regulatory Act or any rules or regulations adopted under it have been or are being violated, and at such time to examine such premises;

(5) To examine or cause to be examined, under oath, any licensee upon whom notice of revocation, cancellation, or suspension has been served in the manner provided in sections 53 and 54 of this act, and to hear testimony and to examine evidence regarding the licensee's performance of his or her duties;

(6) To revoke, cancel, or suspend any license, if upon notice and hearing as provided in sections 53 and 54 of this act, the commission determines that the licensee has violated any rule or regulation adopted and promulgated pursuant to the Nebraska Bingo and Pickle Card Regulatory Act; and

(7) To regulate lotteries conducted by counties, cities, and villages pursuant to section 28-1116 to insure fairness, equity, and uniformity.

Sec. 53. Before the adoption of any rule or regulation pursuant to section 9-169, or before the revocation, cancellation, or suspension of any license pursuant to section 52 of this act, the commission shall set the matter for hearing.

At least ten days before the hearing, the commission shall (1) in the case of revocation, suspension, or cancellation, serve notice upon the licensee of the time, date, and place of any hearing and issue a public notice of the same or (2) in the case of adoption of any rule or regulation, issue a public notice of the time, date, and place of such hearing.

Sec. 54. (1) A copy of the rule, regulation, order, or decision of the commission in any proceeding before it, certified under the seal of the commission, shall be served upon each party of record to the proceeding before the commission. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the commission shall enter his or her appearance and indicate to the commission his or her address for the service of a copy of any rule, regulation, order, decision, or notice. The mailing of any copy of any rule, regulation, or order or of any notice in the proceeding, to such party at such address shall be deemed to be service upon such party.

(2) At the time of making an appearance before the commission, as referred to in subsection (1) of this section, each party shall deposit in cash or furnish a sufficient security for costs in an amount the commission shall deem adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete

transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any order or decision of the commission upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing in respect to any matters determined by the commission. The commission shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the commission shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the commission, except as is provided for in subsection (5) of this section.

(4) Upon the final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered.

Only one rehearing, pursuant to subsection (3) of this section, shall be granted by the commission on application of any one party.

(5) Any decision of the commission to revoke, cancel, or suspend, or to refuse to revoke, cancel, or suspend a license may be reversed, vacated, or modified by the district court as provided in section 84-917.

Sec. 55. At least fourteen days prior to conducting any limited period bingo, the licensee shall notify the commission and the city or village governing board or, if bingo is conducted outside any incorporated city or village, the county governing board, of the date, place, and time of such limited period bingo to be conducted by the licensee.

Sec. 56. There is hereby established the Nebraska Bingo and Pickle Card Regulatory Commission consisting of three members appointed by the Governor and subject to confirmation by the Legislature. No more than two members shall belong to the same political party and no two members shall be citizens of the same congressional district. The Governor shall designate one member to serve as chairperson. Any commission member may be removed by the Governor, after an opportunity to be heard, for malfeasance, misfeasance, or neglect in office.

Sec. 57. The members of the commission shall serve for terms of five years each, except that of the members first appointed, one member shall serve for three years, one for four years, and one for five years. Members shall not serve more than two consecutive terms.

Sec. 58. The commission members shall be reimbursed for their actual and necessary expenses. The members shall be paid a per diem of fifty dollars for each day actually and necessarily engaged in the performance of their duties as members of the commission in addition to such expense allowance. Reimbursement

shall be as provided in sections 84-306.01 to 84-306.05 for state employees.

Sec. 59. The commission shall employ an executive director and such other staff, including inspectors, as necessary to carry out its duties pursuant to the Nebraska Bingo and Pickle Card Regulatory Act.

Sec. 60. (1) Except as provided in subsection (2) or (3) of this section, any county or incorporated municipality may, by resolution or ordinance, tax, regulate, control, or prohibit any lottery within the boundaries of such county or the corporate limits of such incorporated municipality. No county may impose a tax or otherwise regulate, control, or prohibit any lottery within the corporate limits of an incorporated municipality. Any tax imposed pursuant to this subsection shall be remitted to the general fund of the county or incorporated municipality imposing such tax.

(2) No city, county, or nonprofit organization holding a certificate of exemption under the Internal Revenue Code, section 501, or whose major activities are conducted for charitable or community betterment purposes may conduct a lottery and no person may engage in lottery activity within the boundaries of any Class 6 or Class 7 county as classified under section 23-1114.01 or within the corporate limits of any city of the metropolitan or primary class until specific authorization has been granted by ordinance or resolution of the city or county to conduct a lottery or lottery activity. Any ordinance or resolution that provides specific authorization for a lottery or lottery activity may tax, regulate, or otherwise control such lottery or lottery activity.

(3) Nothing in this section shall be construed to apply to bingo as defined in section 9-127, gift enterprise as defined in subdivision (9) of section 28-1101, raffle as defined in subdivision (10) of section 28-1101, or lottery by sale of pickle card as defined in section 5 of this act.

(4) Nothing in this section shall be construed to authorize any lottery not otherwise authorized under sections 28-1114 to 28-1116.

Sec. 61. Any county, city, or village which conducts lotteries pursuant to section 28-1116 shall pay to the commission a tax of two per cent of the gross proceeds of the lotteries. Such tax shall be remitted quarterly and shall be credited to the General Fund of the state.

Sec. 62. That section 28-1116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1116. Any county, city, or village may establish and conduct lotteries when the proceeds of

such lotteries are used for community betterment purposes and the awarding of prizes to participants. Such lotteries shall be subject to regulation by the Nebraska Bingo and Pickle Card Regulatory Commission. No county, city, or village shall establish and conduct such a lottery until such course of action has been approved by a majority of the registered voters of such county, city, or village casting ballots on the issue at a regular election or a special election called for the purpose of considering such action.

Sec. 63. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 64. That original sections 28-1101, 28-1105, 28-1113, 28-1114, 28-1115, and 28-1116, Reissue Revised Statutes of Nebraska, 1943, and sections 9-124, 9-125, 9-127, 9-133, 9-141 to 9-145, 9-149, 9-150, 9-153, 9-156, 9-158, 9-160, 9-162 to 9-165, 9-168 to 9-170, and 90-172 to 9-174, Revised Statutes Supplement, 1982, and also section 9-130, Revised Statutes Supplement, 1982, are repealed.