

LEGISLATIVE BILL 1277

Approved by the Governor April 12, 1996

Introduced by Will, 8

AN ACT relating to pickle cards; to amend sections 9-326, 9-332.01, and 9-338, Reissue Revised Statutes of Nebraska, and sections 9-301, 9-306.01, 9-315, and 9-346, Revised Statutes Supplement, 1994; to authorize the sale of seal cards as prescribed; to provide for the licensure of certain nonprofit and other organizations; to redefine terms; to change provisions relating to departmental approval, contraband goods, and pickle card requirements; to harmonize provisions; and to repeal the original sections.

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

Section 1. A lottery by the sale of pickle cards may be conducted utilizing a seal card comprised of a board or placard that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, symbols, or any combination thereof. All rules governing the handling of prizes awarded in conjunction with seal cards shall be posted prominently in the area where such pickle card units are played.

Sec. 2. Section 9-301, Revised Statutes Supplement, 1994, is amended to read:

9-301. Sections 9-301 to 9-356 and section 1 of this act shall be known and may be cited as the Nebraska Pickle Card Lottery Act.

Sec. 3. Section 9-306.01, Revised Statutes Supplement, 1994, is amended to read:

9-306.01. Designated premises shall mean one location selected by a licensed organization at which individual pickle cards may be sold as opportunities for participation in a lottery by the sale of pickle cards. Only one of the following types of locations may be selected as a designated premises: (1) In the case of an organization holding a certificate of exemption under section 501(c)(3), (c)(4), or (c)(5) of the Internal Revenue Code or a volunteer fire company, one piece of real property which is owned, leased, or used by the organization as its principal office, which is in use by the organization primarily for purposes other than the conduct of gaming activities, and which is not used in connection with any other type of retail business activity other than an occasional sale as defined in section 77-2702.09; or (2) in the case of an organization holding a certificate of exemption under section 501(c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code, one piece of real property which is owned, leased, or used by the organization as its principal office and which is in use by the organization primarily for purposes other than the conduct of gaming activities. For purposes of this section, principal office shall mean the place where the principal affairs and business of the licensed organization are transacted, including where the officers and members assemble to discuss and transact the business of the organization, where its meetings are held, and generally where its records are kept.

Sec. 4. Section 9-315, Revised Statutes Supplement, 1994, is amended to read:

9-315. Pickle card shall mean any disposable card, board, or ticket which accords a person an opportunity to win a cash prize by opening, pulling, detaching, or otherwise removing one or more tabs from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof, and shall include, but not be limited to, any card known as a pickle ticket, pickle, break-open, pull-tab, pull-tab board, punchboard, seal card, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name.

Pickle card shall not mean or include any:

- (1) Card used in connection with bingo conducted pursuant to the Nebraska Bingo Act;
- (2) Racing ticket or wager in connection with any horserace conducted pursuant to Chapter 2, article 12;
- (3) Scrape-off or rub-off ticket;
- (4) Card, ticket, or other device used in connection with any kind of gambling, lottery, raffle, or gift enterprise authorized or regulated under the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701; or
- (5) Card, ticket, or other device prohibited under Chapter 28,

article 11.

Sec. 5. Section 9-326, Reissue Revised Statutes of Nebraska, is amended to read:

9-326. (1) Any nonprofit organization holding a certificate of exemption under section 501(c)(3), (c)(4), (c)(5), ~~(c)(7)~~, (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct a lottery by the sale of pickle cards.

(2) Prior to applying for any license, an organization 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. For purposes of this subsection, a domesticated foreign corporation shall not be considered incorporated in this state as a not-for-profit corporation;

(b) Conduct activities within this state in addition to the conduct of lottery by the sale of pickle cards;

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

(d) 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; and

(e) Be a volunteer fire department or an organization devoted solely to the operation of youth amateur athletics or have been in existence in this state for five years immediately preceding its application for a license and have had during that period a bona fide membership actively engaged in furthering a lawful purpose. A society defined in section 21-608 which is chartered in Nebraska under a state, grand, supreme, national, or other governing body may use the charter date of its parent organization to satisfy such five-year requirement.

Sec. 6. Section 9-332.01, Reissue Revised Statutes of Nebraska, is amended to read:

9-332.01. Each manufacturer shall receive departmental approval prior to ~~offering or marketing~~ selling in this state any type of pickle card, pickle card unit, punchboard, or other similar card, board, or ticket included in section 9-315 whether referred to by any other name intended for resale in Nebraska. Approval by the department shall be based upon, but not limited to, the manufacture, assembly, and packaging of pickle cards or pickle card units and any other specifications imposed by the Nebraska Pickle Card Lottery Act or any rule or regulation adopted and promulgated pursuant to the act.

Sec. 7. Section 9-338, Reissue Revised Statutes of Nebraska, is amended to read:

9-338. (1) No manufacturer or representative thereof, with knowledge or in circumstances under which he or she reasonably should have known, shall manufacture, possess, display, sell, or otherwise furnish to any person any pickle card or pickle card unit:

(a) In which the winning tab or tabs have not been completely and randomly distributed and mixed among all other tabs in a series;

(b) In which the location or approximate location of any of the winning tab or tabs can be determined in advance of opening the tab or tabs in any manner or by any device, including, but not limited to, any pattern in the manufacture, assembly, or packaging of the tabs or pickle cards by the manufacturer, by any markings on the tabs or container, or by the use of a light;

(c) Which offers both a chance for an instant prize and a possible chance to participate in a subsequent lottery activity, except that pickle card units may utilize a seal card to award prizes; or

(d) Which does not conform in all other respects to the requirements of the Nebraska Pickle Card Lottery Act and any other specifications imposed by the department by rule and regulation as to the manufacture, assembly, or packaging of pickle cards.

Any such cards or units shall be contraband goods for purposes of section 9-350.

(2) No manufacturer or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pickle cards contains more winners than other portions of the series or that any series of pickle cards or pickle card units may be sold by the organization or its designated sales agent or pickle card operator in a particular manner that would give the seller any advantage in selling more of the pickle cards before having to pay out winners.

Sec. 8. Section 9-346, Revised Statutes Supplement, 1994, is amended to read:

9-346. (1) 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 on the pickle cards, to a set of numbers, letters, symbols, or configurations, or combination thereof, which has been previously specified as a winning combination. Whenever the winning combinations do not comprise a statement of the cash prize won, the winning combinations shall be printed on every pickle card that is wider than one inch or longer than two and one-half inches. Pickle cards that are smaller than such dimensions shall have the winning combinations printed on a flare card that is publicly displayed at the point of sale of the pickle cards.

(2) The winning chances of any pickle card shall not be determined or otherwise known until after its purchase and only upon opening, pulling, detaching, breaking open, or otherwise removing the tab or tabs to clearly reveal or otherwise appropriately revealing the combination. The winning chances shall be determined by and based upon an element of chance.

(3) Any person possessing a winning pickle card shall receive the appropriate cash prize previously determined and specified for that winning combination.

(4) All pickle cards shall legibly bear on the outside of each pickle card the name of the licensed organization conducting the lottery by the sale of pickle cards and such organization's state identification number.

(5) Nothing in this section shall prohibit (a) punchboards which allow the person who purchases the last punch on the punchboard to receive a cash prize predetermined by the manufacturer as a result of purchasing the last punch or (b) pickle card units which utilize a seal card which allows a seal card winner to receive a cash prize predetermined by the manufacturer.

Sec. 9. Original sections 9-326, 9-332.01, and 9-338, Reissue Revised Statutes of Nebraska, and sections 9-301, 9-306.01, 9-315, and 9-346, Revised Statutes Supplement, 1994, are repealed.