

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 311**

Introduced by Lowe, 37.

Read first time January 11, 2023

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to the Nebraska Racetrack Gaming Act; to amend
- 2 section 9-1106, Reissue Revised Statutes of Nebraska; to change
- 3 dates related to required market analysis and socioeconomic-impact
- 4 studies; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-1106, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 9-1106 The commission shall:

4 (1) License and regulate authorized gaming operators for the  
5 operation of all games of chance authorized pursuant to the Nebraska  
6 Racetrack Gaming Act, including adopting, promulgating, and enforcing  
7 rules and regulations governing such authorized gaming operators  
8 consistent with the act;

9 (2) Regulate the operation of games of chance in order to prevent  
10 and eliminate corrupt practices and fraudulent behavior, and thereby  
11 promote integrity, security, and honest administration in, and accurate  
12 accounting of, the operation of games of chance which are subject to the  
13 act;

14 (3) Establish criteria to license applicants for authorized gaming  
15 operator licenses and all other types of gaming licenses for other  
16 positions and functions incident to the operation of games of chance,  
17 including adopting, promulgating, and enforcing rules, regulations, and  
18 eligibility standards for such authorized gaming operator licenses,  
19 gaming licenses, and positions and functions incident to the operation of  
20 games of chance;

21 (4) Charge fees for applications for licenses and for the issuance  
22 of authorized gaming operator licenses and all other types of gaming  
23 licenses to successful applicants which shall be payable to the  
24 commission;

25 (5) Charge fees to authorized gaming operators in an amount  
26 necessary to offset the cost of oversight and regulatory services to be  
27 provided which shall be payable to the commission;

28 (6) Impose a one-time authorized gaming operator license fee of five  
29 million dollars on each authorized gaming operator for each licensed  
30 racetrack enclosure payable to the commission. The license fee may be  
31 paid over a period of five years with one million dollars due at the time

1 the license is issued;

2 (7) Grant, deny, revoke, and suspend authorized gaming operator  
3 licenses and all other types of gaming licenses based upon reasonable  
4 criteria and procedures established by the commission to facilitate the  
5 integrity, productivity, and lawful conduct of gaming within the state;

6 (8) Grant or deny for cause applications for authorized gaming  
7 operator licenses of not less than twenty years in duration, subject to  
8 an annual review by the commission and receipt by the commission of a  
9 fifty-thousand-dollar annual review fee, with no more than one such  
10 authorized gaming operator license granted for any licensed racetrack  
11 enclosure within the state;

12 (9) Conduct background investigations of applicants for authorized  
13 gaming operator licenses and all other types of gaming licenses;

14 (10) Adopt and promulgate rules and regulations for the standards of  
15 manufacture of gaming equipment;

16 (11) Inspect the operation of any authorized gaming operator  
17 conducting games of chance for the purpose of certifying the revenue  
18 thereof and receiving complaints from the public;

19 (12) Issue subpoenas for the attendance of witnesses or the  
20 production of any records, books, memoranda, documents, or other papers  
21 or things at or prior to any hearing as is necessary to enable the  
22 commission to effectively discharge its duties;

23 (13) Administer oaths or affirmations as necessary to carry out the  
24 act;

25 (14) Have the authority to impose, subject to judicial review,  
26 appropriate administrative fines and penalties for each violation of the  
27 act or any rules and regulations adopted and promulgated pursuant to the  
28 act in an amount not to exceed:

29 (a) For any licensed racetrack enclosure with an authorized gaming  
30 operator operating games of chance for one year or less, fifty thousand  
31 dollars per violation; or

1 (b) For any licensed racetrack enclosure with an authorized gaming  
2 operator operating games of chance for more than one year, three times  
3 the highest daily amount of gross receipts derived from wagering on games  
4 of chance during the twelve months preceding the violation at such  
5 licensed racetrack enclosure gaming facility per violation;

6 (15) Collect and remit administrative fines and penalties collected  
7 under this section to the State Treasurer for distribution in accordance  
8 with Article VII, section 5, of the Constitution of Nebraska;

9 (16) Adopt and promulgate rules and regulations for any gaming taxes  
10 assessed to authorized gaming operators;

11 (17) Collect and account for any gaming taxes assessed to authorized  
12 gaming operators and remit such taxes to the State Treasurer or county  
13 treasurer as required by Nebraska law;

14 (18) Promote treatment of gaming-related behavioral disorders;

15 (19) Establish procedures for the governance of the commission;

16 (20) Acquire necessary offices, facilities, counsel, and staff;

17 (21) Establish procedures for an applicant for a staff position to  
18 disclose conflicts of interest as part of the application for employment;

19 (22) Establish a process to allow a person to be voluntarily  
20 excluded from wagering in any game of chance under the act in accordance  
21 with section 9-1118;

22 (23) Remit all license and application fees collected under the  
23 Nebraska Racetrack Gaming Act to the State Treasurer for credit to the  
24 Racing and Gaming Commission's Racetrack Gaming Fund;

25 (24) Conduct or cause to be conducted a statewide horseracing market  
26 analysis to study the racing market as it currently exists across the  
27 state and within the locations in Nebraska of the racetracks in Adams,  
28 Dakota, Douglas, Hall, Lancaster, and Platte counties as of the date of  
29 the market analysis. Such market analysis shall be completed as soon as  
30 practicable but not later than January 1, 2029 ~~2025~~, and every five years  
31 thereafter and shall be submitted electronically to the General Affairs

1 Committee of the Legislature and to the Governor. Such market analysis  
2 shall examine the market potential and make recommendations involving:

3 (a) The number of live racing days per track, number of races run,  
4 and number of horses that should be entered per race;

5 (b) The number of Nebraska-bred horses available in the market for  
6 running races, including foals dropped in the state for the past three  
7 years at the time of the market analysis;

8 (c) The circuit scheduled in the state and if any overlapping dates  
9 would be beneficial to the circuit and market as a whole;

10 (d) The total number of horses available for the total annual  
11 schedule, with separate analysis for thoroughbred races and quarterhorse  
12 races;

13 (e) The purse money available per race and per track;

14 (f) The strength of the potential and ongoing simulcast market;

15 (g) The staffing patterns and problems that exist at each track,  
16 including unfilled positions;

17 (h) The positive and negative effects, including financial, on each  
18 existing racetrack at the time of the market analysis in the event the  
19 commission approves a new racetrack application;

20 (i) The potential to attract new owners and horses from other  
21 states;

22 (j) The market potential for expansion at each licensed racetrack  
23 enclosure to the live race meet days and the number of live horseraces  
24 required by section 2-1205, and the room for expansion, if any, for  
25 additional licensed racetrack enclosures into the market in Nebraska and  
26 the locations most suitable for such expansion; and

27 (k) Any other data and analysis required by the commission;

28 (25) Conduct or cause to be conducted a statewide casino gaming  
29 market analysis study across the state and within each location of a  
30 racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and Platte  
31 counties. Such market analysis study shall be completed as soon as

1 practicable but not later than January 1, 2029 ~~2025~~, and every five years  
2 thereafter and shall be submitted electronically to the General Affairs  
3 Committee of the Legislature and to the Governor. The market analysis  
4 study shall include:

5 (a) A comprehensive assessment of the potential casino gaming market  
6 conditions;

7 (b) An evaluation of the effects on the Nebraska market from  
8 competitive casino gaming locations outside of the state;

9 (c) Information identifying underperforming or underserved markets  
10 within Nebraska;

11 (d) A comprehensive study of potential casino gaming revenue in  
12 Nebraska; and

13 (e) Any other data and analysis required by the commission;

14 (26) Conduct or cause to be conducted a statewide socioeconomic-  
15 impact study of horseracing and casino gaming across the state and at  
16 each licensed racetrack enclosure and gaming facility in Adams, Dakota,  
17 Douglas, Hall, Lancaster, and Platte counties. Such socioeconomic-impact  
18 study shall be completed as soon as practicable but not later than  
19 January 1, 2029 ~~2025~~, and shall be submitted electronically to the  
20 General Affairs Committee of the Legislature and to the Governor. The  
21 study shall include:

22 (a) Information on financial and societal impacts of horseracing and  
23 casino gaming, including crime and local businesses;

24 (b) An analysis of problem gambling within the state; and

25 (c) A comparison of the economy of counties which contain a licensed  
26 racetrack enclosure operating games of chance and counties which do not  
27 contain such a licensed racetrack enclosure as of the date of the study,  
28 which comparison shall include:

29 (i) The population of such counties;

30 (ii) Jobs created by each licensed racetrack enclosure operating  
31 games of chance in such counties;

- 1 (iii) Unemployment rates in such counties;
- 2 (iv) Information on family and household income in such counties;
- 3 (v) Retail sales in such counties;
- 4 (vi) Property values in such counties;
- 5 (vii) An analysis of the impact on community services, including
- 6 police protection expenditures, fire protection expenditures, road,
- 7 bridge, and sidewalk expenditures, and capital project expenditures in
- 8 such counties;
- 9 (viii) Impact on community health in such counties;
- 10 (ix) Divorce rates in such counties;
- 11 (x) Information on available education and education levels in such
- 12 counties;
- 13 (xi) Life expectancy in such counties;
- 14 (xii) Homelessness in such counties; and
- 15 (xiii) Any other data and analysis required by the commission;
- 16 (27) Approve or deny an application for any licensed racetrack
- 17 enclosure which is not in existence or operational as of April 20, 2022,
- 18 or any licensed racetrack enclosure in existence and operational as of
- 19 November 1, 2020, that applies to move such licensed racetrack enclosure
- 20 pursuant to section 2-1205, on the basis of the placement and location of
- 21 such licensed racetrack enclosure and based on the market as it exists as
- 22 of the most recent issuance of the statewide horseracing market analysis,
- 23 statewide casino gaming market analysis, and statewide socioeconomic-
- 24 impact studies conducted by the commission pursuant to this section. The
- 25 commission shall deny a licensed racetrack enclosure or gaming operator
- 26 license application if it finds that approval of such application in such
- 27 placement and location would be detrimental to the racing or gaming
- 28 market that exists across the state based on the most recent statewide
- 29 horseracing market analysis, statewide casino gaming market analysis, and
- 30 statewide socioeconomic-impact studies; and
- 31 (28) Do all things necessary and proper to carry out its powers and

1 duties under the Nebraska Racetrack Gaming Act, including the adoption  
2 and promulgation of rules and regulations and such other actions as  
3 permitted by the Administrative Procedure Act.

4       Sec. 2.    Original section 9-1106, Reissue Revised Statutes of  
5 Nebraska, is repealed.