

E AND R AMENDMENTS TO LB 524

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 9-701, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 9-701 (1) For purposes of this section:

6 (a) Gift enterprise means a contest, game of chance,
7 savings promotion raffle, or game promotion which is conducted
8 within the state or throughout the state and other states in
9 connection with the sale of consumer or trade products or services
10 solely as business promotions and in which the elements of chance
11 and prize are present. Gift enterprise does not include any scheme
12 using the game of bingo or keno; any non-telecommunication-related,
13 player-activated electronic or electromechanical facsimile of any
14 game of chance; or any slot machine of any kind. A gift enterprise
15 shall not utilize pickle cards as defined in section 9-315.
16 Promotional game tickets may be utilized subject to the following:

17 (i) The tickets utilized shall be manufactured or
18 imprinted with the name of the operator on each ticket;

19 (ii) The tickets utilized shall not be manufactured with
20 a cost per play printed on them; and

21 (iii) The tickets utilized shall not be substantially
22 similar to any type of pickle card approved by the Department of
23 Revenue pursuant to section 9-332.01; ~~and~~

1 (b) Operator means any person, firm, corporation,
2 association, governmental entity, or agent or employee thereof who
3 promotes, operates, or conducts a gift enterprise. Operator does
4 not include any nonprofit organization or any agent or employee
5 thereof, except that operator includes any credit union chartered
6 under state or federal law or any agent or employee thereof who
7 promotes, operates, or conducts a gift enterprise; and-

8 (c) Savings promotion raffle means a contest conducted by
9 a credit union chartered under state or federal law or any agent or
10 employee thereof in which a chance of winning a designated prize is
11 obtained by the deposit of a specified amount of money in a savings
12 account or other savings program if each entry has an equal chance
13 of winning.

14 (2) Any operator may conduct a gift enterprise within
15 this state in accordance with this section.

16 (3) An operator shall not:

17 (a) Design, engage in, promote, or conduct a gift
18 enterprise in connection with the promotion or sale of consumer
19 products or services in which the winner may be unfairly
20 predetermined or the game may be manipulated or rigged;

21 (b) Arbitrarily remove, disqualify, disallow, or reject
22 any entry;

23 (c) Fail to award prizes offered;

24 (d) Print, publish, or circulate literature or
25 advertising material used in connection with such gift enterprise
26 which is false, deceptive, or misleading; or

27 (e) Require an entry fee, a payment or promise of payment

1 of any valuable consideration, or any other consideration as a
2 condition of entering a gift enterprise or winning a prize from the
3 gift enterprise, except that a contest, game of chance, or business
4 promotion may require, as a condition of participation, evidence
5 of the purchase of a product or service as long as the purchase
6 price charged for such product or service is not greater than it
7 would have been without the contest, game of chance, or business
8 promotion. For purposes of this section, consideration shall not
9 include (i) filling out an entry blank, (ii) entering by mail with
10 the purchase of postage at a cost no greater than the cost of
11 postage for a first-class letter weighing one ounce or less, ~~or~~
12 (iii) entering by a telephone call to the operator of or for the
13 gift enterprise at a cost no greater than the cost of postage for a
14 first-class letter weighing one ounce or less. When the only method
15 of entry is by telephone, the cost to the entrant of the telephone
16 call shall not exceed the cost of postage for a first-class letter
17 weighing one ounce or less for any reason, including (A) whether
18 any communication occurred during the call which was not related to
19 the gift enterprise or (B) the fact that the cost of the call to
20 the operator was greater than the cost to the entrant allowed under
21 this section, or (iv) the deposit of money in a savings account or
22 other savings program, regardless of the interest rate earned by
23 such account or program.

24 (4) An operator shall disclose to participants all terms
25 and conditions of a gift enterprise.

26 ~~(4)(a)~~ (5)(a) The Department of Revenue may adopt and
27 promulgate rules and regulations necessary to carry out the

1 operation of gift enterprises.

2 (b) Whenever the department has reason to believe that a
3 gift enterprise is being operated in violation of this section or
4 the department's rules and regulations, it may bring an action in
5 the district court of Lancaster County in the name of and on behalf
6 of the people of the State of Nebraska against the operator of
7 the gift enterprise to enjoin the continued operation of such gift
8 enterprise anywhere in the state.

9 ~~(5)(a)~~ (6)(a) Any person, firm, corporation, association,
10 or agent or employee thereof who engages in any unlawful acts or
11 practices pursuant to this section or violates any of the rules and
12 regulations promulgated pursuant to this section shall be guilty of
13 a Class II misdemeanor.

14 (b) Any person, firm, corporation, association, or agent
15 or employee thereof who violates any provision of this section
16 or any of the rules and regulations promulgated pursuant to this
17 section shall be liable to pay a civil penalty of not more than
18 one thousand dollars imposed by the district court of Lancaster
19 County for each such violation which shall ~~accrue to the permanent~~
20 ~~school fund.~~ be remitted to the State Treasurer for distribution
21 in accordance with Article VII, section 5, of the Constitution
22 of Nebraska. Each day of continued violation shall constitute a
23 separate offense or violation for purposes of this section.

24 (7) A credit union may limit the number of chances that a
25 participant in a savings promotion raffle may obtain for making the
26 required deposits but shall not limit the number of deposits.

27 ~~(6)~~ (8) In all proceedings initiated in any court or

1 otherwise under this section, the Attorney General or appropriate
2 county attorney shall prosecute and defend all such proceedings.

3 ~~(7)~~ (9) This section shall not apply to any activity
4 authorized and regulated under the Nebraska Bingo Act, the Nebraska
5 County and City Lottery Act, the Nebraska Lottery and Raffle Act,
6 the Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery
7 and Raffle Act.

8 Sec. 2. Original section 9-701, Reissue Revised Statutes
9 of Nebraska, is repealed.