

AMENDMENTS TO LB177

Introduced by General Affairs.

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

3 **Section 1.** Section 77-3001, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 77-3001 For purposes of the Mechanical Amusement Device Tax Act,
6 unless the context otherwise requires:

7 (1) Cash device means any mechanical amusement device capable of
8 awarding (a) cash, (b) anything redeemable for cash, (c) gift cards,
9 credit, or other instruments which have a value denominated by reference
10 to an amount of currency, or (d) anything redeemable for anything
11 described in subdivision (c) of this subdivision;

12 (2) Department means the Department of Revenue;

13 (3) Distributor means any person, other than a retail establishment,
14 who places and who either directly or indirectly controls or manages a
15 mechanical amusement device within a retail establishment within the
16 State of Nebraska;

17 (4) Manufacturer means an individual, partnership, corporation, or
18 limited liability company that manufactures, builds, rebuilds,
19 fabricates, assembles, produces, programs, designs, or otherwise makes
20 modifications to cash devices or associated equipment for use or play of
21 cash devices;

22 (5)(a) Mechanical amusement device means any machine which, upon
23 insertion of a coin, currency, credit card, or substitute into the
24 machine, operates or may be operated or used for a game, contest, or
25 amusement of any description, such as, by way of example, but not by way
26 of limitation, pinball games, shuffleboard, bowling games, radio-ray
27 rifle games, baseball, football, racing, boxing games, electronic video

1 games of skill, and coin-operated pool tables. Mechanical amusement
2 device also includes game and draw lotteries and coin-operated automatic
3 musical devices.

4 (b) Mechanical amusement device does not mean vending machines which
5 dispense tangible personal property, devices located in private homes for
6 private use, pickle card dispensing devices which are required to be
7 registered with the department pursuant to section 9-345.03, gaming
8 devices or limited gaming devices as defined in and operated pursuant to
9 the Nebraska Racetrack Gaming Act, or devices which are mechanically
10 constructed in a manner that would render their operation illegal under
11 the laws of the State of Nebraska;

12 (6) Net operating revenue means the dollar amount collected by a
13 distributor or operator of any cash device computed pursuant to
14 applicable statutes, rules, and regulations less the total of cash awards
15 paid out to players by the cash device as described in subdivision (1) of
16 this section;

17 (7) Operator means any person who operates a place of business in
18 which a mechanical amusement device ~~owned by him or her~~ is physically
19 located and available for play;

20 (8) Person means an individual, partnership, limited liability
21 company, society, association, joint-stock company, corporation, estate,
22 receiver, lessee, trustee, assignee, referee, or other person acting in a
23 fiduciary or representative capacity, whether appointed by a court or
24 otherwise, and any combination of individuals; and

25 (9) Whenever in the Mechanical Amusement Device Tax Act the words
26 electronic video games of skill, games of skill, or skill-based devices
27 are used, they refer to mechanical amusement devices which produce an
28 outcome predominantly caused by skill and not chance.

29 **Sec. 2.** Section 77-3002, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 77-3002 (1) Any operator shall be required to procure a biennial an

1 ~~annual~~ license from the Tax Commissioner permitting him or her to operate
2 mechanical amusement devices within the State of Nebraska. The Tax
3 Commissioner, upon the application of any person, may issue a license,
4 except that if the applicant (a) is not of good character and reputation
5 in the community in which he or she resides, (b) has been convicted of or
6 has pleaded guilty to a felony under the laws of the State of Nebraska,
7 of any other state, or of the United States, or (c) has been convicted of
8 or has pleaded guilty to being the proprietor of a gambling house, or of
9 any other crime or misdemeanor opposed to decency and morality, no
10 license shall be issued. If the applicant is a corporation whose majority
11 stockholders could not obtain a license, then such corporation shall not
12 be issued a license. If the applicant is an individual, the application
13 shall include the applicant's social security number. Procuring a license
14 shall constitute sufficient contact with this state for the exercise of
15 personal jurisdiction over such person in any action arising out of the
16 operation of mechanical amusement devices in this state.

17 (2)(a) Except for an applicant that holds a liquor license under the
18 Nebraska Liquor Control Act, an applicant for or person holding a license
19 as an operator of a cash device shall be subject to a ~~one-time~~ background
20 check at any time by the department including fingerprinting and a check
21 of his or her criminal history record information maintained by the
22 Identification Division of the Federal Bureau of Investigation through
23 the Nebraska State Patrol for the purpose of determining whether the
24 Department of Revenue has a basis to deny the license application or to
25 suspend, cancel, revoke, or terminate the person's license. Each
26 applicant for or person holding a license pursuant to this section shall
27 also submit a personal history report to the department on a form
28 provided by the department and may be subject to a background
29 investigation, an inspection of the applicant's or licensee's facilities,
30 or both prior to the issuance of a license. An applicant or licensee
31 shall pay the costs associated with the background check along with any

1 required fees as determined by the department.

2 (b) The Tax Commissioner has the authority to deny any application
3 for a license as an operator of a cash device for cause. Cause for denial
4 of a license application includes instances in which the applicant
5 individually, or in the case of a business entity, any officer, director,
6 employee, or limited liability company member of the applicant or
7 licensee other than an employee whose duties are purely ministerial in
8 nature:

9 (i) Violated the provisions, requirements, conditions, limitations,
10 or duties imposed by the Mechanical Amusement Device Tax Act or any rules
11 or regulations adopted and promulgated pursuant to the act;

12 (ii) Knowingly caused, aided, abetted, or conspired with another to
13 cause any person to violate any of the provisions of the act or any rules
14 or regulations adopted and promulgated pursuant to the act;

15 (iii) Obtained a license or permit under the act by fraud,
16 misrepresentation, or concealment;

17 (iv) Has been convicted of, forfeited bond upon a charge of, or
18 pleaded guilty or nolo contendere to any offense or crime, whether a
19 felony or a misdemeanor, involving any gambling activity or fraud, theft,
20 willful failure to make required payments or reports, or filing false
21 reports with a governmental agency at any level;

22 (v) Denied the department or its authorized representatives,
23 including authorized law enforcement agencies, access to any place where
24 activity required to be licensed under the act is being conducted or
25 failed to produce for inspection or audit any book, record, document, or
26 item required by law, rule, or regulation;

27 (vi) Made a misrepresentation of or failed to disclose a material
28 fact to the department;

29 (vii) Failed to prove by clear and convincing evidence such
30 applicant's qualifications to be licensed in accordance with the act;

31 (viii) Failed to pay any taxes and additions to taxes, including

1 penalties and interest required by the act or any other taxes imposed
2 pursuant to the Nebraska Revenue Act of 1967; or

3 (ix) Has been cited for a violation of the Nebraska Liquor Control
4 Act and had a liquor license suspended, canceled, or revoked by the
5 Nebraska Liquor Control Commission for illegal gambling activities on or
6 about the premises licensed by the commission pursuant to the Nebraska
7 Liquor Control Act or the rules and regulations adopted and promulgated
8 pursuant to such act.

9 (c) No renewal of a license issued pursuant to this section shall be
10 issued when the applicant for renewal would not be eligible for a license
11 upon a first application.

12 (3) The Tax Commissioner has the authority to suspend or revoke the
13 license of any operator that is in violation of the Mechanical Amusement
14 Device Tax Act.

15 (4) Beginning on the implementation date designated by the Tax
16 Commissioner pursuant to subsection (2) of section 9-1312, prior to the
17 winnings payment of any cash device winnings as defined in section
18 9-1303, an operator of a cash device shall check the collection system to
19 determine if the winner has a debt or an outstanding state tax liability
20 as required by the Gambling Winnings Setoff for Outstanding Debt Act. If
21 such operator determines that the winner is subject to the collection
22 system, the operator shall deduct the amount of debt and outstanding
23 state tax liability identified in the collection system from the winnings
24 payment and shall remit the net winnings payment of cash device winnings,
25 if any, to the winner and the amount deducted to the Department of
26 Revenue to be credited against such debt or outstanding state tax
27 liability as provided in section 9-1306.

28 **Sec. 3.** Section 77-3003, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 77-3003 (1) Any distributor shall be required to procure a biennial
31 ~~an annual~~ license from the Tax Commissioner permitting him or her to

1 place and either directly or indirectly control or manage a mechanical
2 amusement device within the State of Nebraska. The Tax Commissioner, upon
3 the application of any person, may issue a license, subject to the same
4 limitations as an operator's license under section 77-3002. If the
5 applicant is an individual, the application shall include the applicant's
6 social security number.

7 (2)(a) Except for an applicant that holds a liquor license under the
8 Nebraska Liquor Control Act, an applicant for or person holding a license
9 as a distributor of a cash device shall be subject to a ~~one-time~~
10 background check at any time by the department including fingerprinting
11 and a check of his or her criminal history record information maintained
12 by the Identification Division of the Federal Bureau of Investigation
13 through the Nebraska State Patrol for the purpose of determining whether
14 the Department of Revenue has a basis to deny the license application or
15 to suspend, cancel, revoke, or terminate the person's license. Each
16 applicant for or person holding a license pursuant to this section shall
17 also submit a personal history report to the department on a form
18 provided by the department and may be subject to a background
19 investigation, an inspection of the applicant's or licensee's facilities,
20 or both prior to issuance of the license. An applicant or licensee shall
21 pay the costs associated with the background check along with any
22 required fees as determined by the department.

23 (b) The Tax Commissioner has the authority to deny any application
24 for a license as a distributor of a cash device for cause. Cause for
25 denial of a license application includes instances in which the applicant
26 individually, or in the case of a business entity, any officer, director,
27 employee, or limited liability company member of the applicant or
28 licensee other than an employee whose duties are purely ministerial in
29 nature:

30 (i) Violated the provisions, requirements, conditions, limitations,
31 or duties imposed by the Mechanical Amusement Device Tax Act or any rules

1 or regulations adopted and promulgated pursuant to the act;

2 (ii) Knowingly caused, aided, abetted, or conspired with another to
3 cause any person to violate any of the provisions of the act or any rules
4 or regulations adopted and promulgated pursuant to the act;

5 (iii) Obtained a license or permit under the act by fraud,
6 misrepresentation, or concealment;

7 (iv) Has been convicted of, forfeited bond upon a charge of, or
8 pleaded guilty or nolo contendere to any offense or crime, whether a
9 felony or a misdemeanor, involving any gambling activity or fraud, theft,
10 willful failure to make required payments or reports, or filing false
11 reports with a governmental agency at any level;

12 (v) Denied the department or its authorized representatives,
13 including authorized law enforcement agencies, access to any place where
14 activity required to be licensed under the act is being conducted or
15 failed to produce for inspection or audit any book, record, document, or
16 item required by law, rule, or regulation;

17 (vi) Made a misrepresentation of or failed to disclose a material
18 fact to the department;

19 (vii) Failed to prove by clear and convincing evidence such
20 applicant's qualifications to be licensed in accordance with the act;

21 (viii) Failed to pay any taxes and additions to taxes, including
22 penalties and interest required by the act or any other taxes imposed
23 pursuant to the Nebraska Revenue Act of 1967; or

24 (ix) Has been cited for a violation of the Nebraska Liquor Control
25 Act and had a liquor license suspended, canceled, or revoked by the
26 Nebraska Liquor Control Commission for illegal gambling activities on or
27 about the premises licensed by the commission pursuant to the Nebraska
28 Liquor Control Act or the rules and regulations adopted and promulgated
29 pursuant to such act.

30 (c) No renewal of a license issued pursuant to this section shall be
31 issued when the applicant for renewal would not be eligible for a license

1 upon a first application.

2 (3) Beginning January 1, 2025, the biennial ~~annual~~ license for a
3 distributor of a cash device shall be accompanied by a fee of two ~~one~~
4 hundred dollars per cash device up to a maximum of ten ~~five~~ thousand
5 dollars.

6 (4) The Tax Commissioner has the authority to suspend or revoke the
7 license of any distributor that is in violation of the Mechanical
8 Amusement Device Tax Act.

9 (5) Beginning on the implementation date designated by the Tax
10 Commissioner pursuant to subsection (2) of section 9-1312, prior to the
11 winnings payment of any cash device winnings as defined in section
12 9-1303, a distributor of a cash device shall check the collection system
13 to determine if the winner has a debt or an outstanding state tax
14 liability as required by the Gambling Winnings Setoff for Outstanding
15 Debt Act. If such distributor determines that the winner is subject to
16 the collection system, the distributor shall deduct the amount of debt
17 and outstanding state tax liability identified in the collection system
18 from the winnings payment and shall remit the net winnings payment of
19 cash device winnings, if any, to the winner and the amount deducted to
20 the Department of Revenue to be credited against such debt or outstanding
21 state tax liability as provided in section 9-1306.

22 **Sec. 4.** Section 77-3003.03, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 77-3003.03 (1) A manufacturer of a cash device shall be required to
25 procure a biennial ~~an annual~~ license from the Tax Commissioner permitting
26 such manufacturer to place any cash devices in the State of Nebraska for
27 sale, lease, or distribution through a third party. The Tax Commissioner,
28 upon the application of any person, may issue a license subject to the
29 same limitations as an operator's license under section 77-3002. If the
30 applicant is an individual, the application shall include the applicant's
31 social security number. The license fee for a manufacturer of a cash

1 device shall be ~~ten~~ five thousand dollars.

2 (2)(a) Each applicant for or person holding a license as a
3 manufacturer of a cash device shall be subject to a ~~one-time~~ background
4 check at any time by the department including fingerprinting and a check
5 of his or her criminal history record information maintained by the
6 Identification Division of the Federal Bureau of Investigation through
7 the Nebraska State Patrol for the purpose of determining whether the
8 Department of Revenue has a basis to deny the license application or to
9 suspend, cancel, revoke, or terminate the person's license. Each
10 applicant for or person holding a license pursuant to this section shall
11 also submit a personal history report to the department on a form
12 provided by the department and may be subject to a background
13 investigation, an inspection of the applicant's or licensee's facilities,
14 or both prior to the issuance of a license. An applicant or licensee
15 shall pay the costs associated with the background check and any required
16 fees as determined by the department.

17 (b) The Tax Commissioner has the authority to deny a license for a
18 manufacturer of a cash device for cause. Cause for denial of a license
19 application includes instances in which the applicant individually, or in
20 the case of a business entity, any officer, director, employee, or
21 limited liability company member of the applicant or licensee other than
22 an employee whose duties are purely ministerial in nature:

23 (i) Violated the provisions, requirements, conditions, limitations,
24 or duties imposed by the Mechanical Amusement Device Tax Act or any rules
25 or regulations adopted and promulgated pursuant to the act;

26 (ii) Knowingly caused, aided, abetted, or conspired with another to
27 cause any person to violate any of the provisions of the act or any rules
28 or regulations adopted and promulgated pursuant to the act;

29 (iii) Obtained a license or permit under the act by fraud,
30 misrepresentation, or concealment;

31 (iv) Has been convicted of, forfeited bond upon a charge of, or

1 pleaded guilty or nolo contendere to any offense or crime, whether a
2 felony or a misdemeanor, involving any gambling activity or fraud, theft,
3 willful failure to make required payments or reports, or filing false
4 reports with a governmental agency at any level;

5 (v) Denied the department or its authorized representatives,
6 including authorized law enforcement agencies, access to any place where
7 activity required to be licensed under the act is being conducted or
8 failed to produce for inspection or audit any book, record, document, or
9 item required by law, rule, or regulation;

10 (vi) Made a misrepresentation of or failed to disclose a material
11 fact to the department;

12 (vii) Failed to prove by clear and convincing evidence such
13 applicant's qualifications to be licensed in accordance with the act;

14 (viii) Failed to pay any taxes and additions to taxes, including
15 penalties and interest required by the act or any other taxes imposed
16 pursuant to the Nebraska Revenue Act of 1967; or

17 (ix) Has been cited for a violation of the Nebraska Liquor Control
18 Act and had a liquor license suspended, canceled, or revoked by the
19 Nebraska Liquor Control Commission for illegal gambling activities on or
20 about the premises licensed by the commission pursuant to the Nebraska
21 Liquor Control Act or the rules and regulations adopted and promulgated
22 pursuant to such act.

23 (c) No renewal of a license pursuant to this section shall be issued
24 when the applicant for renewal would not be eligible for a license upon a
25 first application.

26 (3) The Tax Commissioner has the authority to suspend or revoke the
27 license of any manufacturer of a cash device that is in violation of the
28 Mechanical Amusement Device Tax Act.

29 **Sec. 5.** Original sections 77-3001, 77-3002, 77-3003, and
30 77-3003.03, Revised Statutes Cumulative Supplement, 2024, are repealed.