

## ENGROSSED LEGISLATIVE BILL 177

Introduced by Clouse, 37.

A BILL FOR AN ACT relating to the Mechanical Amusement Device Tax Act; to amend sections 77-3001, 77-3002, 77-3003, and 77-3003.03, Revised Statutes Cumulative Supplement, 2024; to redefine terms; to change provisions relating to certain licenses; and to repeal the original sections.

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

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

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

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

(2) Department means the Department of Revenue;

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

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

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

boxing games, electronic video games of skill, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices.

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

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

(7) Operator means any person who operates a place of business in which a mechanical amusement device is physically located and available for play;

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

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

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

77-3002 (1) Any operator shall be required to procure a biennial license from the Tax Commissioner permitting him or her to operate mechanical amusement devices within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, except that if the applicant

(a) is not of good character and reputation in the community in which he or she resides, (b) has been convicted of or has pleaded guilty to a felony under the laws of the State of Nebraska, of any other state, or of the United States, or (c) has been convicted of or has pleaded guilty to being the proprietor of a gambling house, or of any other crime or misdemeanor opposed to decency and morality, no license shall be issued. If the applicant is a corporation whose majority stockholders could not obtain a license, then such corporation shall not be issued a license. If the applicant is an individual, the application shall include the applicant's social security number. Procuring a license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the operation of mechanical amusement devices in this state.

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

(b) The Tax Commissioner has the authority to deny any application for a license as an operator of a cash device for cause. Cause for denial of a license application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee

whose duties are purely ministerial in nature:

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

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

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

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

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

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

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

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

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

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

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

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

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

77-3003 (1) Any distributor shall be required to procure a biennial license from the Tax Commissioner permitting him or her to place and either directly or indirectly control or manage a mechanical amusement device within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, subject to the same limitations as an operator's license under section 77-3002. If the applicant is an individual, the application shall include the applicant's social security number.

(2)(a) Except for an applicant that holds a liquor license under the Nebraska Liquor Control Act, an applicant for or person holding a license as a distributor of a cash device shall be subject to a background check at any time by the department including fingerprinting and a check of his or her criminal

history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol for the purpose of determining whether the Department of Revenue has a basis to deny the license application or to suspend, cancel, revoke, or terminate the person's license. Each applicant for or person holding a license pursuant to this section shall also submit a personal history report to the department on a form provided by the department and may be subject to a background investigation, an inspection of the applicant's or licensee's facilities, or both. An applicant or licensee shall pay the costs associated with the background check along with any required fees as determined by the department.

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

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

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

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

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

(v) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity

required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

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

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

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

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

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

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

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

(5) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, a distributor of a cash device shall check the collection system to determine if the winner has a debt or an outstanding state tax liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such distributor determines that the winner is subject to the collection system, the distributor

shall deduct the amount of debt and outstanding state tax liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state tax liability as provided in section 9-1306.

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

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

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

(b) The Tax Commissioner has the authority to deny a license for a manufacturer of a cash device for cause. Cause for denial of a license



application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature:

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

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

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

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

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

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

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

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

(ix) Has been cited for a violation of the Nebraska Liquor Control Act and had a liquor license suspended, canceled, or revoked by the Nebraska Liquor

Control Commission for illegal gambling activities on or about the premises licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

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

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

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

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 177 was passed by the One Hundred Ninth  
Legislature of Nebraska at its First Session on the ..... day  
of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**