

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 177

FINAL READING

Introduced by Clouse, 37.

Read first time January 13, 2025

Committee: General Affairs

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

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

1 **Section 1.** Section 77-3001, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 77-3001 For purposes of the Mechanical Amusement Device Tax Act,
4 unless the context otherwise requires:

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

10 (2) Department means the Department of Revenue;

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

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

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

29 (b) Mechanical amusement device does not mean vending machines which
30 dispense tangible personal property, devices located in private homes for
31 private use, pickle card dispensing devices which are required to be

1 registered with the department pursuant to section 9-345.03, gaming
2 devices or limited gaming devices as defined in and operated pursuant to
3 the Nebraska Racetrack Gaming Act, or devices which are mechanically
4 constructed in a manner that would render their operation illegal under
5 the laws of the State of Nebraska;

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

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

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

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

23 **Sec. 2.** Section 77-3002, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 77-3002 (1) Any operator shall be required to procure a biennial ~~an~~
26 ~~annual~~ license from the Tax Commissioner permitting him or her to operate
27 mechanical amusement devices within the State of Nebraska. The Tax
28 Commissioner, upon the application of any person, may issue a license,
29 except that if the applicant (a) is not of good character and reputation
30 in the community in which he or she resides, (b) has been convicted of or
31 has pleaded guilty to a felony under the laws of the State of Nebraska,

1 of any other state, or of the United States, or (c) has been convicted of
2 or has pleaded guilty to being the proprietor of a gambling house, or of
3 any other crime or misdemeanor opposed to decency and morality, no
4 license shall be issued. If the applicant is a corporation whose majority
5 stockholders could not obtain a license, then such corporation shall not
6 be issued a license. If the applicant is an individual, the application
7 shall include the applicant's social security number. Procuring a license
8 shall constitute sufficient contact with this state for the exercise of
9 personal jurisdiction over such person in any action arising out of the
10 operation of mechanical amusement devices in this state.

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

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

1 licensee other than an employee whose duties are purely ministerial in
2 nature:

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

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

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

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

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

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

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

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

28 (ix) Has been cited for a violation of the Nebraska Liquor Control
29 Act and had a liquor license suspended, canceled, or revoked by the
30 Nebraska Liquor Control Commission for illegal gambling activities on or
31 about the premises licensed by the commission pursuant to the Nebraska

1 Liquor Control Act or the rules and regulations adopted and promulgated
2 pursuant to such act.

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

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

9 (4) 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, an operator of a cash device shall check the collection system to
13 determine if the winner has a debt or an outstanding state tax liability
14 as required by the Gambling Winnings Setoff for Outstanding Debt Act. If
15 such operator determines that the winner is subject to the collection
16 system, the operator shall deduct the amount of debt and outstanding
17 state tax liability identified in the collection system from the winnings
18 payment and shall remit the net winnings payment of cash device winnings,
19 if any, to the winner and the amount deducted to the Department of
20 Revenue to be credited against such debt or outstanding state tax
21 liability as provided in section 9-1306.

22 **Sec. 3.** Section 77-3003, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 77-3003 (1) Any distributor shall be required to procure a biennial
25 ~~an annual~~ license from the Tax Commissioner permitting him or her to
26 place and either directly or indirectly control or manage a mechanical
27 amusement device within the State of Nebraska. The Tax Commissioner, upon
28 the application of any person, may issue a license, subject to the same
29 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.

1 (2)(a) Except for an applicant that holds a liquor license under the
2 Nebraska Liquor Control Act, an applicant for or person holding a license
3 as a distributor of a cash device shall be subject to a ~~one-time~~
4 background check at any time by the department including fingerprinting
5 and a check of his or her criminal history record information maintained
6 by the Identification Division of the Federal Bureau of Investigation
7 through the Nebraska State Patrol for the purpose of determining whether
8 the Department of Revenue has a basis to deny the license application or
9 to 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 issuance of the license. An applicant or licensee shall
15 pay the costs associated with the background check along with any
16 required fees as determined by the department.

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

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

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

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

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

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

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

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

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

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

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

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

31 (4) The Tax Commissioner has the authority to suspend or revoke the

1 license of any distributor that is in violation of the Mechanical
2 Amusement Device Tax Act.

3 (5) Beginning on the implementation date designated by the Tax
4 Commissioner pursuant to subsection (2) of section 9-1312, prior to the
5 winnings payment of any cash device winnings as defined in section
6 9-1303, a distributor of a cash device shall check the collection system
7 to determine if the winner has a debt or an outstanding state tax
8 liability as required by the Gambling Winnings Setoff for Outstanding
9 Debt Act. If such distributor determines that the winner is subject to
10 the collection system, the distributor shall deduct the amount of debt
11 and outstanding state tax liability identified in the collection system
12 from the winnings payment and shall remit the net winnings payment of
13 cash device winnings, if any, to the winner and the amount deducted to
14 the Department of Revenue to be credited against such debt or outstanding
15 state tax liability as provided in section 9-1306.

16 **Sec. 4.** Section 77-3003.03, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 77-3003.03 (1) A manufacturer of a cash device shall be required to
19 procure a biennial ~~an annual~~ license from the Tax Commissioner permitting
20 such manufacturer to place any cash devices in the State of Nebraska for
21 sale, lease, or distribution through a third party. The Tax Commissioner,
22 upon the application of any person, may issue a license subject to the
23 same limitations as an operator's license under section 77-3002. If the
24 applicant is an individual, the application shall include the applicant's
25 social security number. The license fee for a manufacturer of a cash
26 device shall be ten ~~five~~ thousand dollars.

27 (2)(a) Each applicant for or person holding a license as a
28 manufacturer of a cash device shall be subject to a ~~one-time~~ background
29 check at any time by the department including fingerprinting and a check
30 of his or her criminal history record information maintained by the
31 Identification Division of the Federal Bureau of Investigation through

1 the Nebraska State Patrol for the purpose of determining whether the
2 Department of Revenue has a basis to deny the license application or to
3 suspend, cancel, revoke, or terminate the person's license. Each
4 applicant for or person holding a license pursuant to this section shall
5 also submit a personal history report to the department on a form
6 provided by the department and may be subject to a background
7 investigation, an inspection of the applicant's or licensee's facilities,
8 or both prior to the issuance of a license. An applicant or licensee
9 shall pay the costs associated with the background check and any required
10 fees as determined by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **Sec. 5.** Original sections 77-3001, 77-3002, 77-3003, and
24 77-3003.03, Revised Statutes Cumulative Supplement, 2024, are repealed.