

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 421

Introduced by Clouse, 37.

Read first time January 17, 2025

Committee: General Affairs

1 A BILL FOR AN ACT relating to gambling; to amend section 9-1204, Reissue
2 Revised Statutes of Nebraska, and sections 9-1103, 9-1106, and
3 9-1110, Revised Statutes Cumulative Supplement, 2024; to define and
4 redefine terms; to authorize an online gaming operator to conduct
5 sports wagering by means of an online sports wagering platform under
6 the Nebraska Racetrack Gaming Act; to provide powers and duties to
7 the State Racing and Gaming Commission; to change provisions for the
8 distribution of taxes collected from sports wagering; to provide an
9 operative date; to provide severability; to repeal the original
10 sections; and to declare an emergency.

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

1 **Section 1.** Section 9-1103, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 9-1103 For purposes of the Nebraska Racetrack Gaming Act:

4 (1) Authorized gaming operator means a person or entity licensed
5 pursuant to the act to operate games of chance within a licensed
6 racetrack enclosure;

7 (2) Authorized gaming operator license means a license to operate
8 games of chance as an authorized gaming operator at a licensed racetrack
9 enclosure;

10 (3)(a) Except as otherwise provided in subdivision (b) of this
11 subdivision, authorized sporting event means a professional sporting
12 event, a collegiate sporting event, an international sporting event, a
13 professional motor race event, a professional sports draft, an individual
14 sports award, an electronic sport, or a simulated game; and

15 (b) Authorized sporting event does not include ~~an in-state collegiate~~
16 ~~sporting event in which an in-state collegiate or university team is a~~
17 ~~participant~~, a parimutuel wager, a fantasy sports contest, a minor league
18 sporting event, a sporting event at the high school level or below
19 regardless of the age of any individual participant, or any sporting
20 event excluded by the commission;

21 (4) Collegiate sporting event means an athletic event or competition
22 of an intercollegiate sport played at the collegiate level for which
23 eligibility requirements for participation by a student athlete are
24 established by a national association for the promotion or regulation of
25 collegiate athletics;

26 (5) Commission means the State Racing and Gaming Commission;

27 (6) Designated sports wagering area means an area, as approved by
28 the commission, in which sports wagering is conducted;

29 (7) Game of chance means any game which has the elements of chance,
30 prize, and consideration, including any wager on a slot machine, table
31 game, counter game, or card game, a keno lottery conducted in accordance

1 with the Nebraska County and City Lottery Act, or sports wagering. Game
2 of chance does not include any game the operation of which is prohibited
3 at a casino by federal law;

4 (8) Gaming device means an electronic, mechanical, or other device
5 which plays a game of chance when activated by a player using currency, a
6 token, or other item of value;

7 (9) International sporting event means an international team or
8 individual sporting event governed by an international sports federation
9 or sports governing body, including sporting events governed by the
10 International Olympic Committee and the International Federation of
11 Association Football;

12 (10) Licensed racetrack enclosure means all real property licensed
13 and utilized for the conduct of a race meeting, including the racetrack
14 and any grandstand, concession stand, office, barn, barn area, employee
15 housing facility, parking lot, and additional area designated by the
16 commission in accordance with the Constitution of Nebraska and applicable
17 Nebraska law;

18 (11) Limited gaming device means an electronic gaming device which
19 (a) offers games of chance, (b) does not dispense currency, tokens, or
20 other items of value, and (c) does not have a cash winnings hopper,
21 mechanical or simulated spinning reel, or side handle;

22 (12) Online sports wagering platform means an integrated system of
23 hardware, software, or applications through which an authorized gaming
24 operator or its platform provider operates, conducts, or offers sports
25 wagering through the Internet to persons located within the State of
26 Nebraska;

27 (13) Platform provider means a sports wagering vendor that contracts
28 with an authorized gaming operator to provide an online sports wagering
29 platform;

30 (14) ~~(12)~~ Prohibited participant means any individual whose
31 participation may undermine the integrity of the wagering or the sporting

1 event or any person who is prohibited from sports wagering for other good
2 cause shown as determined by the commission, including, but not limited
3 to: (a) Any individual placing a wager as an agent or proxy; (b) any
4 person who is an athlete, a coach, a referee, or a player placing a wager
5 on ~~in~~ any sporting event overseen by the sports governing body of such
6 person based on publicly available information; (c) a person who holds a
7 paid position of authority or influence sufficient to exert influence
8 over the participants in a sporting event, including, but not limited to,
9 any coach, manager, handler, or athletic trainer, or a person with access
10 to certain types of exclusive information, placing a wager on any
11 sporting event overseen by the sports governing body of such person based
12 on publicly available information; or (d) a person identified as
13 prohibited from sports wagering by any list provided by a sports
14 governing body to the commission;

15 (15) ~~(13)~~ Racing license means a license issued for a licensed
16 racetrack enclosure by the commission; and

17 (16) ~~(14)~~ Sports wagering means the acceptance of wagers on an
18 authorized sporting event by any system of wagering as authorized by the
19 commission. Sports wagering includes, but is not limited to, ~~does not~~
20 ~~include~~ (a) placing a wager on the performance or nonperformance of any
21 individual athlete participating in a single game or match of a
22 ~~collegiate sporting event in which a collegiate team from this state is~~
23 ~~participating,~~ and (b) placing an in-game wager on any game or match of a
24 ~~collegiate sporting event in which a collegiate team from this state is~~
25 ~~participating,~~ (c) ~~placing a wager on the performance or nonperformance~~
26 ~~of any individual athlete under eighteen years of age participating in a~~
27 ~~professional or international sporting event,~~ or (d) ~~placing a wager on~~
28 ~~the performance of athletes in an individual sporting event excluded by~~
29 ~~the commission.~~

30 **Sec. 2.** Section 9-1106, Revised Statutes Cumulative Supplement,
31 2024, is amended to read:

1 9-1106 The commission shall:

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

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

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

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

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

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

31 (7) Grant, deny, revoke, and suspend authorized gaming operator

1 licenses and all other types of gaming licenses based upon reasonable
2 criteria and procedures established by the commission to facilitate the
3 integrity, productivity, and lawful conduct of gaming within the state;

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

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

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

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

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

21 (13) Administer oaths or affirmations as necessary to carry out the
22 act;

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

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

30 (b) For any licensed racetrack enclosure with an authorized gaming
31 operator operating games of chance for more than one year, three times

1 the highest daily amount of gross receipts derived from wagering on games
2 of chance during the twelve months preceding the violation at such
3 licensed racetrack enclosure gaming facility per violation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (i) The potential to attract new owners and horses from other
19 states;

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

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

26 (25) Conduct or cause to be conducted a statewide casino gaming
27 market analysis study across the state and within each location of a
28 racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and Platte
29 counties. Such market analysis study shall be completed as soon as
30 practicable but not later than January 1, 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. The market analysis
2 study shall include:

3 (a) A comprehensive assessment of the potential casino gaming market
4 conditions;

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

7 (c) Information identifying underperforming or underserved markets
8 within Nebraska;

9 (d) A comprehensive study of potential casino gaming revenue in
10 Nebraska; and

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

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

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

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

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

27 (i) The population of such counties;

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

30 (iii) Unemployment rates in such counties;

31 (iv) Information on family and household income in such counties;

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

1 permitted by the Administrative Procedure Act;

2 (29) Recommend to the Governor and to the General Affairs Committee
3 of the Legislature amendments to all laws administered by the commission;
4 and

5 (30) As appropriate and as recommended by the executive director of
6 the commission, delegate to an adjudication subcommittee of the
7 commission those powers and duties of the commission as necessary to
8 carry out and effectuate the purposes of the Nebraska Racetrack Gaming
9 Act and investigate and respond to violations of the Nebraska Racetrack
10 Gaming Act. The adjudication subcommittee staff shall be appointed by the
11 executive director. No person may be appointed to the adjudication
12 subcommittee if such person is involved in the investigation of any
13 violation being heard or investigated by the subcommittee. Any action of
14 the adjudication subcommittee may be appealed to the commission or may be
15 reviewed by the commission on its own initiative. The adjudication
16 subcommittee may impose a fine, consistent with the Nebraska Racetrack
17 Gaming Act, not to exceed fifteen thousand dollars, upon a finding that
18 the act or any rule or regulation adopted and promulgated under the act
19 has been violated. The commission shall remit any fines collected under
20 this subdivision to the State Treasurer for distribution in accordance
21 with Article VII, section 5, of the Constitution of Nebraska; and -

22 (31) Examine rules and regulations from other states relating to
23 online sports wagering and, if practicable, adopt a similar regulatory
24 framework through the adoption and promulgation of rules and regulations
25 for online sports wagering.

26 **Sec. 3.** Section 9-1110, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 9-1110 (1)(a)(i) ~~(1)~~ The commission may permit an authorized gaming
29 operator to conduct sports wagering. All sports wagering shall be
30 conducted by an authorized gaming operator located within a licensed
31 racetrack enclosure or in partnership with such authorized gaming

1 operator pursuant to subdivision (1)(b) of this section. Any sports wager
2 shall be placed (A) in person or at a wagering kiosk in the designated
3 sports wagering area at the licensed racetrack enclosure or (B) by means
4 of an online sports wagering platform that is offered by or in
5 partnership with an authorized gaming operator by an individual that is
6 located in the State of Nebraska. Servers, including backup servers, used
7 for online sports wagering may be located outside of this state, but to
8 the extent required by federal law, an authorized gaming operator or
9 platform provider shall maintain in this state the servers it uses to
10 accept a sports wager placed by an individual located in this state.

11 (ii) A parimutuel wager in accordance with sections 2-1201 to 2-1218
12 may be placed in the designated sports wagering area at the licensed
13 racetrack enclosure. An individual employed and authorized to accept a
14 sports wager may also accept a parimutuel wager.

15 (b)(i) An authorized gaming operator may conduct sports wagering by
16 means of one online sports wagering platform and may contract with one
17 platform provider for purposes of providing sports wagering. An
18 individual or entity that does not have a contract with an authorized
19 gaming operator to conduct sports wagering by means of an online sports
20 wagering platform shall not be permitted to conduct sports wagering in
21 the State of Nebraska. Any sports wagering conducted by means of an
22 online sports wagering platform shall conform to all requirements
23 relating to sports wagering pursuant to the Nebraska Racetrack Gaming Act
24 and any rules or regulations adopted and promulgated pursuant to the act.

25 (ii) An authorized gaming operator or a platform provider that has
26 contracted with an authorized gaming operator shall submit controls to
27 the commission for approval in a manner prescribed by the commission
28 relating to any online sports wagering platform that the authorized
29 gaming operator or the platform provider intends to use to conduct sports
30 wagering by means of an online sports wagering platform. The commission
31 shall announce a date on which it shall begin to accept controls relating

1 to online sports wagering platforms, which shall be no later than thirty
2 days after the commission adopts and promulgates rules and regulations
3 relating to online sports wagering. The commission shall have thirty days
4 to review and approve or deny proposed controls submitted by an
5 authorized gaming operator or a platform provider that has contracted
6 with an authorized gaming operator. All authorized gaming operators or
7 platform providers that have contracted with an authorized gaming
8 operator that submit controls within thirty days of the date on which the
9 commission first begins to accept controls, if such controls are
10 approved, shall be given an equal opportunity to commence offering and
11 conducting online sports wagering on the same day, which shall be no
12 later than sixty days from the date that the commission first begins to
13 accept controls. No authorized gaming operator or platform provider shall
14 conduct sports wagering by means of an online sports wagering platform
15 until the controls for such online sports wagering platform are approved
16 by the commission.

17 (2) A floor plan identifying the designated sports wagering area,
18 including the location of any wagering kiosks, shall be filed with the
19 commission for review and approval. Modification to a previously approved
20 plan must be submitted for approval at least ten days prior to
21 implementation. The area shall not be accessible to persons under twenty-
22 one years of age and shall have a sign posted to restrict access.
23 Exceptions to this subsection must be approved in writing by the
24 commission.

25 (3) The authorized gaming operator shall submit controls for
26 approval by the commission, that include the following for operating the
27 designated sports wagering area:

28 (a) Specific procedures and technology partners to fulfill the
29 requirements set forth by the commission;

30 (b) Other specific controls as designated by the commission;

31 (c) A process to easily and prominently impose limitations or

1 notification for wagering parameters, including, but not limited to,
2 deposits and wagers; and

3 (d) An easy and obvious method for a player to make a complaint and
4 to enable the player to notify the commission if such complaint has not
5 been or cannot be addressed by the sports wagering operator.

6 (4) The commission shall develop policies and procedures to ensure a
7 prohibited participant is unable to place a sports wager or parimutuel
8 wager.

9 (5) Beginning on the implementation date designated by the Tax
10 Commissioner pursuant to subsection (1) of section 9-1312, prior to the
11 winnings payment of any sports wagering winnings as defined in section
12 9-1303, an authorized gaming operator 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 authorized gaming operator determines that the winner
16 is subject to the collection system, the operator shall deduct the amount
17 of debt and outstanding state tax liability identified in the collection
18 system from the winnings payment and shall remit the net winnings payment
19 of sports wagering winnings, if any, to the winner and the amount
20 deducted to the Department of Revenue to be credited against such debt or
21 outstanding state tax liability as provided in section 9-1306.

22 **Sec. 4.** Section 9-1204, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 9-1204 (1) Of the tax imposed by section 9-1203 on gross gaming
25 revenue not generated by sports wagering, seventy-five percent shall be
26 remitted to the State Treasurer for credit as follows: Two and one-half
27 percent to the Compulsive Gamblers Assistance Fund, two and one-half
28 percent to the General Fund, and seventy percent to the Property Tax
29 Credit Cash Fund. The remaining twenty-five percent of the tax shall be
30 remitted to the county treasurer of the county in which the licensed
31 racetrack enclosure is located to be distributed as follows: (a) ~~(1)~~ If

1 the licensed racetrack enclosure is located completely within an
2 unincorporated area of a county, the remaining twenty-five percent shall
3 be distributed to the county in which such licensed racetrack enclosure
4 is located; or (b) (2) if the licensed racetrack enclosure is located at
5 least partially within the limits of a city or village in such county,
6 one-half of the remaining twenty-five percent shall be distributed to
7 such county and one-half of the remaining twenty-five percent to the city
8 or village in which such licensed racetrack enclosure is at least
9 partially located.

10 (2) The tax imposed by section 9-1203 on gross gaming revenue
11 generated by sports wagering shall be remitted to the State Treasurer for
12 credit as follows: Three percent to the Compulsive Gamblers Assistance
13 Fund, three and one-half percent to the Racing and Gaming Commission's
14 Racetrack Gaming Fund, three and one-half percent to the Racing and
15 Gaming Commission's Racing Cash Fund, and ninety percent to the Property
16 Tax Credit Cash Fund.

17 **Sec. 5.** This act becomes operative on September 1, 2025.

18 **Sec. 6.** If any section in this act or any part of any section is
19 declared invalid or unconstitutional, the declaration shall not affect
20 the validity or constitutionality of the remaining portions.

21 **Sec. 7.** Original section 9-1204, Reissue Revised Statutes of
22 Nebraska, and sections 9-1103, 9-1106, and 9-1110, Revised Statutes
23 Cumulative Supplement, 2024, are repealed.

24 **Sec. 8.** Since an emergency exists, this act takes effect when
25 passed and approved according to law.