

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 890

Introduced by Clouse, 37.

Read first time January 08, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to the Mechanical Amusement Device Tax Act; to
2 amend sections 77-3003.01 and 77-3004, Revised Statutes Cumulative
3 Supplement, 2024, and sections 77-3003 and 77-3003.02, Revised
4 Statutes Supplement, 2025; to change provisions relating to fees for
5 manufacturer and distributor licenses and for cash devices under the
6 act; to change provisions relating to occupation taxes for
7 mechanical amusement devices that are not cash devices under the
8 act; and to repeal the original sections.

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

1 **Section 1.** Section 77-3003, Revised Statutes Supplement, 2025, is
2 amended to read:

3 77-3003 (1) Any distributor shall be required to procure a biennial
4 license from the Tax Commissioner permitting him or her to place and
5 either directly or indirectly control or manage a mechanical amusement
6 device within the State of Nebraska. The Tax Commissioner, upon the
7 application of any person, may issue a license, subject to the same
8 limitations as an operator's license under section 77-3002. If the
9 applicant is an individual, the application shall include the applicant's
10 social security number.

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 a distributor of a cash device shall be subject to a background check
14 at any time by the department including fingerprinting and a check of his
15 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. An applicant or licensee shall pay the costs associated with the
25 background check along with any required fees as determined by the
26 department.

27 (b) The Tax Commissioner has the authority to deny any application
28 for a license as a distributor of a cash device for cause. Cause for
29 denial 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) Beginning January 1, 2025, the biennial license for a
7 distributor of a cash device shall be accompanied by a fee of two hundred
8 dollars per cash device up to a maximum of ten thousand dollars. The
9 Department of Revenue shall remit all license fees collected by the
10 department pursuant to this section to the State Treasurer for credit to
11 the Department of Revenue Enforcement Fund.

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

15 (5) 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, a distributor of a cash device shall check the collection system
19 to determine if the winner has a debt or an outstanding state liability
20 as required by the Gambling Winnings Setoff for Outstanding Debt Act. If
21 such distributor determines that the winner is subject to the collection
22 system, the distributor shall deduct the amount of debt and outstanding
23 state 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 liability
27 as provided in section 9-1306.

28 **Sec. 2.** Section 77-3003.01, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 77-3003.01 (1)(a) The Tax Commissioner or his or her agents or
31 employees, at the direction of the Tax Commissioner, or any peace officer

1 of this state may seize, without a warrant, any mechanical amusement
2 device if there is cause to believe such mechanical amusement device is
3 not in compliance with the Mechanical Amusement Device Tax Act or any
4 rules and regulations adopted and promulgated under the act or if the
5 department determines the response to a request for information is
6 materially deficient without good cause. In addition to seizure, any
7 person placing in service or operating a cash device constituting an
8 illegal game of chance or an unlicensed cash device of any kind within
9 this state shall be subject to a penalty of up to one thousand dollars
10 for each day of such operation. The Tax Commissioner has the authority to
11 suspend or revoke the license of any operator, manufacturer, or
12 distributor of a cash device that is in violation of this section.

13 (b) For purposes of this subsection, a mechanical amusement device
14 is subject to seizure and penalties as if it were a game of chance if:

15 (i) The mechanical amusement device is a cash device; and

16 (ii) The mechanical amusement device does not bear an unexpired
17 decal as required under the Mechanical Amusement Device Tax Act.

18 (c) This section does not apply to any device (i) used in any bingo,
19 lottery by the sale of pickle cards, or other lottery, raffle, or gift
20 enterprise conducted in accordance with the Nebraska Bingo Act, Nebraska
21 County and City Lottery Act, Nebraska Lottery and Raffle Act, Nebraska
22 Pickle Card Lottery Act, Nebraska Small Lottery and Raffle Act, State
23 Lottery Act, or section 9-701, (ii) used for a prize contest as defined
24 in section 28-1101, (iii) specifically authorized by the laws of this
25 state, or (iv) regulated under the Nebraska Racetrack Gaming Act.

26 (2) To receive a determination from the department that a cash
27 device is in compliance with the Mechanical Amusement Device Tax Act and
28 any rules and regulations adopted and promulgated under the act, a
29 manufacturer or distributor of the device shall:

30 (a) Submit an application to the Tax Commissioner containing
31 information regarding the device's location, software, Internet

1 connectivity, and configuration as may be required by the Tax
2 Commissioner;

3 (b)(i) (b) Submit an application fee as provided in subdivision (b)
4 (ii) of this subsection. of five hundred dollars;

5 (ii) The application fee shall be:

6 (A) Five hundred dollars prior to January 1, 2027;

7 (B) Six hundred fifty dollars beginning January 1, 2027, and prior
8 to January 1, 2028; and

9 (C) Beginning January 1, 2028, and January 1 of each year
10 thereafter, the fee from the prior calendar year adjusted for inflation
11 by the department using a formula tied to the Producer Price Index for
12 all commodities, published by the United States Department of Labor,
13 Bureau of Labor Statistics. After applying the formula, the Department of
14 Revenue shall round the adjusted figure to the nearest number divisible
15 by fifty and set such figure as the application fee;

16 (c) Provide a specimen of the proposed cash device;

17 (d) Provide all supporting evidence, including a report by an
18 independent testing laboratory certified by the Tax Commissioner, to the
19 Tax Commissioner indicating that, under all configurations, settings, and
20 modes of operation, operation of the cash device constitutes a game of
21 skill and not a game of chance and the use, operation, sale, or
22 manufacture of the cash device would not constitute a violation of
23 section 28-1107; and

24 (e) Provide an affidavit from the manufacturer or distributor
25 affirming that no functional changes in hardware or software will be made
26 to the approved cash device without further approval from the Tax
27 Commissioner.

28 (3) The Tax Commissioner shall issue a response in writing to the
29 applicant within forty-five days after the applicant has completed and
30 submitted all application requirements. The Tax Commissioner's response
31 shall state the reason for any denial or the reasons a determination

1 cannot be made.

2 (4)(a) A cash device shall not be considered a game of skill if one
3 or more of the following apply:

4 (i) The ability of any player to succeed at the game played on the
5 cash device is impacted by the number or ratio of prior wins to prior
6 losses of players playing such cash device;

7 (ii) The ability of the player to succeed at the game played on the
8 cash device is impacted by the ability of any person to set a specified
9 win-loss ratio for the cash device or by the cash device having a
10 predetermined win-loss percentage;

11 (iii) The outcome of the game played on the cash device can be
12 controlled by a source other than any player playing the cash device;

13 (iv) The success of any player is or may be determined by a chance
14 event which cannot be altered by player action;

15 (v) There is no possibility for the player to win every game played
16 on the cash device or there are unwinnable games or game modes on the
17 cash device;

18 (vi) The ability of any player to succeed at the game played on the
19 cash device requires the exercise of skill that no reasonable player
20 could exercise; or

21 (vii) The primary determination of the prize amount is determined by
22 the presentation or generation of a particular puzzle or group of symbols
23 dealt to the player and the player does not have control over the puzzle
24 or group of symbols presented.

25 (b) For purposes of this subsection, reasonable player means a
26 player with an average level of intelligence, physical and mental skills,
27 reaction time, and dexterity.

28 (5) The department or any court considering whether a gambling
29 device is a game of skill may consider:

30 (a) The results of an analysis by the independent testing laboratory
31 certified by the Tax Commissioner to evaluate the reaction time required

1 for a player of a particular game on such cash device to perform the
2 tasks required by the game to win; or

3 (b) The results of an analysis by the independent testing laboratory
4 certified by the Tax Commissioner to evaluate factors set forth by the
5 Tax Commissioner, other than reaction time, required for the player of a
6 particular game on such cash device to perform the tasks required by the
7 game to win.

8 (6) Factors which are not sufficient indications of a skill-based
9 game include, but are not limited to:

10 (a) Whether a comprehensive list of prizes or outcomes is offered to
11 the player or whether all outcomes are drawn from a finite pool of
12 predetermined outcomes or starting positions;

13 (b) Whether a player can increase his or her chance of winning based
14 on knowledge of probabilities in general or the probabilities of any
15 particular prize or outcome in a game or on a cash device;

16 (c) Whether a player can simply choose not to play before committing
17 money or credits; or

18 (d) A game task consisting solely of moving a symbol up or down,
19 replacing one symbol with another, or any similar action, with or without
20 a timer.

21 (7) Upon approval of an application based on a determination that
22 the mechanical amusement device is a game of skill and not a game of
23 chance, the Tax Commissioner shall issue a mechanical amusement device
24 decal for the device as configured and as provided in subsection (8) of
25 this section. No mechanical amusement device decal shall be issued for
26 any cash device unless the department has determined that such cash
27 device is a game of skill and not a game of chance and that the
28 manufacture, sale, transport, placement, possession, or operation of such
29 cash device does not constitute a violation of section 28-1107. If the
30 Tax Commissioner does not approve the application for the cash device,
31 the application shall be denied and the operator shall have the

1 opportunity for an administrative hearing before the Tax Commissioner at
2 which evidence may be presented on the issue of whether the cash device
3 is specifically authorized by law and is not a gambling device as defined
4 in section 28-1101. After such hearing, the Tax Commissioner shall enter
5 a final decision approving or denying the application. The Tax
6 Commissioner's final decision may be appealed, and the appeal shall be in
7 accordance with the Administrative Procedure Act.

8 (8)(a) Upon approval of a specimen of a cash device as a game of
9 skill under this section, the department may issue a mechanical amusement
10 device decal for each such cash device:

11 (i) If certified by the manufacturer to be functionally identical in
12 both hardware and software configurations to the specimen provided to the
13 department; and

14 (ii) If the application fee described in subdivision (2)(b) of this
15 section and the annual decal fee described in subdivision (c) of this
16 subsection have been paid.

17 (b)(i) In order for a distributor or operator of a cash device to
18 place a cash device into operation at a retail establishment, other than
19 a retail establishment owned or operated by a fraternal benefit society
20 organized and licensed under sections 44-1072 to 44-10,109 or a
21 recognized veterans organization as defined in section 80-401.01, such
22 retail establishment shall generate at least sixty percent of the gross
23 operating revenue of such retail establishment from sources other than
24 the total gross operating revenue of any cash devices located within the
25 retail establishment.

26 (ii) The number of cash devices permitted at any retail
27 establishment shall not exceed the lesser of either:

28 (A) Except for a fraternal benefit society organized and licensed
29 under sections 44-1072 to 44-10,109 or a recognized veterans organization
30 as defined in section 80-401.01, the number of cash devices it takes to
31 generate forty percent of the gross operating revenue of the retail

1 establishment; or

2 (B) Four cash devices, except that an establishment with over four
3 thousand square feet may have one cash device for each one thousand
4 square feet, up to a maximum of fifteen cash devices.

5 (c)(i) (e) The distributor or operator of a cash device shall pay an
6 annual decal fee as provided in subdivision (c)(ii) of this subsection of
7 ~~two hundred fifty dollars to the department for each cash device in~~
8 ~~operation in Nebraska.~~ The decal issued under this section shall be
9 distinct from other decals issued by the department for mechanical
10 amusement devices that are not required to be evaluated under this
11 section. Regardless of the issuance of a decal by the department, no cash
12 device shall be considered in compliance if it does not bear an unexpired
13 decal in a conspicuous place.

14 (ii) For each cash device in operation in Nebraska the annual decal
15 fee shall be:

16 (A) Two hundred fifty dollars prior to January 1, 2027;
17 (B) Three hundred fifty dollars beginning January 1, 2027, and prior
18 to January 1, 2028; and

19 (C) Beginning January 1, 2028, and January 1 of each year
20 thereafter, the fee from the prior calendar year adjusted for inflation
21 by the department using a formula tied to the Producer Price Index for
22 all commodities, published by the United States Department of Labor,
23 Bureau of Labor Statistics. After applying the formula, the Department of
24 Revenue shall round the adjusted figure to the nearest number divisible
25 by fifty and set such figure as the annual decal fee.

26 (9) The application process described in this section shall not be
27 construed to limit further investigation by the department or the
28 issuance of further regulations to promote compliance after the
29 application process is completed. At any point after a determination of
30 skill by the department, the department may request from the
31 manufacturer, distributor, or operator information about any cash device

1 in operation in this state, including, but not limited to, information
2 regarding currently operable source code, changes to software or
3 hardware, and communications from or to the device over the Internet. A
4 manufacturer, distributor, or operator that receives a request shall
5 respond with all responsive information in its possession or control
6 within fifteen business days.

7 (10) If a manufacturer or distributor receives a determination from
8 the department that a cash device is not in compliance with the
9 Mechanical Amusement Device Tax Act, such manufacturer or distributor
10 shall have thirty days after the issuance of that determination to remove
11 any such cash device from operation in Nebraska.

12 (11) Application fees collected under subsection (2) of this section
13 and annual decal fees collected under subsection (8) of this section
14 shall be remitted to the State Treasurer for credit to the Department of
15 Revenue Enforcement Fund.

16 **Sec. 3.** Section 77-3003.03, Revised Statutes Supplement, 2025, is
17 amended to read:

18 77-3003.03 (1) A manufacturer of a cash device shall be required to
19 procure a biennial license from the Tax Commissioner permitting such
20 manufacturer to place any cash devices in the State of Nebraska for sale,
21 lease, or distribution through a third party. The Tax Commissioner, upon
22 the application of any person, may issue a license subject to the same
23 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 thousand dollars. The Department of Revenue shall
27 remit all license fees collected by the department pursuant to this
28 section to the State Treasurer for credit to the Department of Revenue
29 Enforcement Fund.

30 (2)(a) Each applicant for or person holding a license as a
31 manufacturer of a cash device shall be subject to a background check at

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **Sec. 4.** Section 77-3004, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 77-3004 (1) An occupation tax is hereby imposed and levied, in the
28 amount and in accordance with the terms and conditions stated in this
29 section, upon the business of operating mechanical amusement devices that
30 are not cash devices within the State of Nebraska for profit or gain
31 either directly or indirectly received. Every person who now or hereafter

1 engages in the business of operating such mechanical amusement devices
2 that are not cash devices in the State of Nebraska shall pay such
3 occupation tax in the amount and manner specified in this section.

4 (2) Any distributor or operator of a mechanical amusement device
5 that is not a cash device within the State of Nebraska shall pay an
6 occupation tax for each such mechanical amusement device which he or she
7 places into operation during all of the taxable year. The occupation tax
8 shall be due and payable on January 1 of each year on each mechanical
9 amusement device that is not a cash device in operation on that date,
10 except that it shall be unlawful to pay any such occupation tax unless
11 the sales or use tax has been paid on such mechanical amusement devices.
12 For every mechanical amusement device that is not a cash device put into
13 operation on a date subsequent to January 1, and which has not been
14 included in computing the occupation tax imposed and levied by the
15 Mechanical Amusement Device Tax Act, the occupation tax shall be due and
16 payable therefor prior to the time the mechanical amusement device is
17 placed in operation. ~~All occupation taxes collected pursuant to the act~~
18 ~~shall be remitted to the State Treasurer for credit to the General Fund.~~

19 (3) The amount of the occupation tax for each mechanical amusement
20 device that is not a cash device shall be:

21 ~~(a) Thirty-five thirty-five dollars for each mechanical amusement~~
22 ~~device that is not a cash device~~ for any period beginning on or after
23 ~~January 1, 2000, and prior to January 1, 2027, except that for such~~
24 ~~mechanical amusement devices placed in operation after July 1, and before~~
25 ~~January 1 of any such each year, the occupation tax shall be twenty~~
26 ~~dollars for each mechanical amusement device;~~ -

27 (b) For calendar year 2027, seventy dollars; and

28 (c) For calendar year 2028 and each calendar year thereafter, the
29 ~~occupation tax from the prior calendar year adjusted for inflation by the~~
30 ~~department using a formula tied to the Producer Price Index for all~~
31 ~~commodities, published by the United States Department of Labor, Bureau~~

1 of Labor Statistics. After applying the formula, the Department of
2 Revenue shall round the adjusted figure to the nearest number divisible
3 by five.

4 (4) The occupation taxes collected pursuant to this section shall be
5 remitted to the State Treasurer for credit as follows:

6 (a) Twenty percent of such amount to the Department of Revenue
7 Enforcement Fund; and

8 (b) Eighty percent of such amount to the General Fund.

9 **Sec. 5.** Original sections 77-3003.01 and 77-3004, Revised Statutes
10 Cumulative Supplement, 2024, and sections 77-3003 and 77-3003.03, Revised
11 Statutes Supplement, 2025, are repealed.