

LEGISLATIVE BILL 408

Approved by the Governor May 17, 1985

Introduced by Miscellaneous Subjects Committee,
Hefner, 19, Chairperson; Conway, 17;
Hartnett, 45; V. Johnson, 8; Morehead, 30

AN ACT relating to gambling; to amend sections 9-140.07, 9-140.08, and 9-146, Reissue Revised Statutes of Nebraska, 1943, sections 9-124, 9-125, 9-126, 9-140.01, 9-140.09, 9-145, 9-148, 9-153, 9-170, 9-178.01, 9-179, 9-183, 9-184, 9-186 to 9-189, and 28-1105, Revised Statutes Supplement, 1984, section 9-173, Revised Statutes Supplement, 1984, as amended by section 2, Legislative Bill 486, Eighty-ninth Legislature, First Session, 1985, and section 9-185, Revised Statutes Supplement, 1984, as amended by section 3, Legislative Bill 486, Eighty-ninth Legislature, First Session, 1985; to state intent; to define and redefine terms; to change provisions relating to bingo, pickle cards, lotteries, and raffles; to provide for certain licenses; to provide powers, duties, and requirements; to eliminate obsolete language; to harmonize provisions; to provide operative dates; to repeal the original sections, and also section 9-1,100, Revised Statutes Supplement, 1984; and to declare an emergency.

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

Section 1. That section 9-124, Revised Statutes Supplement, 1984, be amended to read as follows:

9-124. (1) The purpose of the Nebraska Bingo and Lottery Control Act is to protect the health and welfare of the public, to protect the economic welfare and interest in lotteries, raffles, and pickle card sales and winnings and in the fair play of bingo participants, to insure that the profits derived from the operation of bingo and any lottery, raffle, or lottery by the sale of pickle cards are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of bingo and any lottery, raffle, or lottery by the sale of pickle cards are to be used from being subverted by improper elements. Bingo and any lottery, raffle, or lottery by the sale of pickle cards shall be played and conducted only by those methods permitted in the Nebraska Bingo and Lottery Control Act. No other form, means of selection, or method of play shall

be authorized or permitted.

(2) The purpose of the Nebraska Bingo and Lottery Control Act is to completely and fairly regulate each level of the traditional marketing scheme of pickle cards to insure fairness, quality, and compliance with the Constitution of the State of Nebraska. To accomplish such purpose, the regulation and licensure of manufacturers of pickle cards, distributors of pickle cards, nonprofit organizations, sales agents or sellers of pickle cards, operators or conductors of a lottery by the sale of pickle cards, and any other person involved in the marketing scheme are necessary.

(3) ~~(2)~~ The intent of the Nebraska Bingo and Lottery Control Act is that (a) if facilities used for bingo occasions are leased or rented pursuant to ~~the provisions of~~ the Nebraska Bingo and Lottery Control Act, they shall be leased or rented at not more than their fair market value, (b) no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation, and (c) rental or lease agreements entered into for facilities shall be separate and apart from lease and rental agreements for bingo equipment and supplies.

(4) ~~(3)~~ The intent of the Nebraska Bingo and Lottery Control Act is that if equipment and supplies used for bingo occasions are leased or rented, they shall be leased or rented at not more than their fair market value and that no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation.

Sec. 2. That section 9-125, Revised Statutes Supplement, 1984, be amended to read as follows:

9-125. For purposes of the Nebraska Bingo and Lottery Control Act, unless the context otherwise requires, the definitions found in sections 9-126 to 9-140.12, sections 8 to 11 of this act, and subdivisions (6) and (10) of section 28-1101 shall be used.

Sec. 3. That section 9-126, Revised Statutes Supplement, 1984, be amended to read as follows:

9-126. (1) Lawful purpose shall mean charitable or community betterment purposes including, but not limited to, one or more of the following:

(a) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; and

(c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Lawful purpose shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(3) Nothing in this section shall prohibit any veterans' organization which is nationally chartered by the Congress of the United States, or any auxiliary thereof, or any nonprofit organization holding a certificate of exemption under subsection (c), subdivision 3, 5, 7, 8, 10, or 19, of section 501 of the Internal Revenue Code from using its proceeds or profits derived from activities under the Nebraska Bingo and Lottery Control Act in any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

Sec. 4. That section 9-140.01, Revised Statutes Supplement, 1984, be amended to read as follows:

9-140.01. (1) Lottery by the sale of pickle cards shall mean any gambling scheme in which participants pay or agree to pay something of value for a pickle card. Any lottery by the sale of pickle cards shall be conducted pursuant to and in accordance with the ~~provisions of~~ the Nebraska Bingo and Lottery Control Act.

(2) Pickle card shall mean any (a) disposable card, board, or ticket which accords a person an opportunity to win something of value by opening, pulling, detaching, or otherwise removing tabs from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof, and (b) card known as a pickle ticket, pickle, break-open, pull-tab, pull-tab board, punch board, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name.

(3) Pickle card shall not mean or include any: (a) Regular bingo card as defined in section 9-137; (b) special bingo card as defined in section 9-139; (c) racing ticket or wager in connection with any horserace conducted pursuant to Chapter 2, article 12; (d) scrape-off or rub-off ticket; ~~(e) punch board;~~ or (e) ~~(f)~~ any other kind of gambling, lottery, raffle, or gift enterprise ticket or scheme authorized pursuant to Chapter 28, article 11.

(4) The winning cards, boards, or tickets in any lottery by the sale of pickle cards shall be determined by a comparison of those numbers, letters, symbols, or configurations, or combination thereof, which are revealed ~~by removal of the tabs from~~ on the pickle cards, to a set of

numbers, letters, symbols, or configurations, or combination thereof, which has been previously specified on each pickle card as a winning combination. Whenever the winning combinations do not comprise a statement of the prize won, the winning combinations shall be printed on every pickle card that is wider than one inch or longer than two and one half inches. Pickle cards that are smaller than such dimensions shall have the winning combinations printed on a card that is publicly displayed at the point of sale of the pickle cards. The winning chances of any pickle card shall not be determined or otherwise known until after its purchase and only upon opening, pulling, detaching, or otherwise removing the tabs to clearly reveal or otherwise appropriately revealing the combination. The winning chances shall be determined by and based upon an element of chance.

(5) Any person possessing a winning pickle card shall receive the appropriate prize or value previously determined and specified on each pickle card for that winning combination.

(6) All pickle cards shall legibly bear on the outside of each pickle card the name of the nonprofit organization conducting the lottery by the sale of pickle cards, such organization's identification number, and a unit number.

Sec. 5. That section 9-140.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-140.07. Suspend shall mean to cause a temporary interruption of all rights and privileges of an annual license or permit or the renewal thereof.

Sec. 6. That section 9-140.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-140.08. Cancel shall mean to discontinue all rights and privileges of an annual license to hold an annual license or permit for up to three years.

Sec. 7. That section 9-140.09, Revised Statutes Supplement, 1984, be amended to read as follows:

9-140.09. Revoke shall mean to permanently void and recall all rights and privileges of an organization or a person to obtain a license or permit.

Sec. 8. Sales agent shall mean any person who markets or sells any pickle card unit owned by an organization licensed pursuant to sections 9-141 to 9-143 to conduct a lottery by the sale of pickle cards to any licensed pickle card operator.

Sec. 9. Pickle card operator shall mean any person or business who sells individual pickle cards as opportunities for participation in a lottery by the sale of pickle cards, but shall not include any member of the licensed organization who, in a voluntary capacity without compensation, sells individual pickle cards on behalf of the licensed organization.

Sec. 10. Manufacturer shall mean any person who

assembles from raw materials or subparts a completed piece or pieces of pickle cards and pickle card units.

Sec. 11. Member shall mean a person who is recognized and acknowledged by the eligible organization as a member for purposes other than conducting activities under the Nebraska Bingo and Lottery Control Act. Member shall not include social or honorary members.

Sec. 12. That section 9-145, Revised Statutes Supplement, 1984, be amended to read as follows:

9-145. Any person conducting bingo, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts shall be a member or officer of the organization holding the bingo license and shall not receive any compensation, directly or indirectly, for any duties connected with conducting bingo. No compensation shall be paid to any other person for the conduct of, or in connection with, a bingo occasion, either directly or indirectly, except for security services. Any person providing security services shall not assist in the conduct of bingo greater than an amount equal to four dollars per hour for each hour such person actually conducted bingo during a bingo occasion or limited period bingo occasion or such designated members actually acted as such.

Sec. 13. That section 9-146, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-146. (1) Not more than ten bingo occasions per month may be held by a licensed organization. Bingo occasions held as part of a limited period bingo shall not be counted in determining whether a licensed organization has exceeded the limitation provided in this subsection.

(2) Irrespective of the number of licensed organizations authorized to hold bingo occasions within a single structure or building, not more than two limited period bingos per year and, with the exception of a limited period bingo, not more than two bingo occasions per week may be held within such structure or building. The governing board of the incorporated city or village in which such structure or building is situated or the governing board of the county in which such structure or building is situated, if it be situated outside the limits of an incorporated city or village, may allow, following actual notice to all licensed organizations within the boundaries of the political subdivision and published notice to the public and public hearing on such allowance, more than two bingo occasions per week within such structure or building. Such allowance may be granted for a period not to exceed three years and only upon an affirmative showing that no building or structure suitable for the conduct of a bingo occasion is available for lease or rental within such political subdivision, except the structure or building for which the allowance is sought, and that no injury to the public welfare will result from

such allowance.

(3) No licensed organization shall use any structure or building in any week for any bingo occasion, except a limited period bingo occasion, when the structure or building has previously been used twice for bingo occasions during such week. For purposes of this section, week shall mean any period consisting of seven consecutive days.

Sec. 14. That section 9-148, Revised Statutes Supplement, 1984, be amended to read as follows:

9-148. (1) Irrespective of whether a bingo game or a bingo occasion is conducted jointly by two or more licensed organizations, no prize in a single bingo game shall exceed one thousand dollars and the aggregate value of bingo prizes at any bingo occasion shall not exceed four three thousand five hundred dollars.

(2) The gross receipts from any bingo occasion shall not exceed eight seven thousand dollars. At least fifty per cent of the gross receipts from each bingo occasion shall be awarded as prizes.

(3) Merchandise prizes shall be valued at their fair market retail value. No merchandise prize shall be redeemable or convertible into cash directly or indirectly by the licensed organization.

Sec. 15. That section 9-153, Revised Statutes Supplement, 1984, be amended to read as follows:

9-153. No expense shall be incurred or amounts paid in connection with the conduct of bingo by an organization, except those reasonably expended for bingo supplies and equipment; prizes, utilities used during the bingo occasion, security services used during the bingo occasion, bingo license fees, taxes related to bingo, the rental or lease of any structure, compensation of any person conducting bingo, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts, and bingo equipment and supplies or such equipment and supplies rented or leased pursuant to the Nebraska Bingo and Lottery Control Act.

Sec. 16. That section 9-170, Revised Statutes Supplement, 1984, be amended to read as follows:

9-170. (1) Except when another penalty is specifically provided, any person, licensee, distributor, manufacturer, qualified organization, or employee or agent of any licensee, distributor, manufacturer, or qualified organization who shall violate any provision of the Nebraska Bingo and Lottery Control Act shall be guilty of a Class II misdemeanor. Any licensed organization guilty of violating any provision of the Nebraska Bingo and Lottery Control Act more than once in a twelve-month period shall have its license canceled or revoked.

(2) In all proceedings initiated in any court or otherwise under the Nebraska Bingo and Lottery Control

Act, it shall be the duty of the Attorney General and appropriate county attorney to prosecute and defend all such proceedings.

(3) The failure to do any act required by or under the Nebraska Bingo and Lottery Control Act shall be deemed an act in part in the principal office of the department. Any prosecution under such act may be conducted in any county where the defendant resides or has a place of business or in any county in which any violation occurred.

(4) In the enforcement and investigation of any offense committed under the Nebraska Bingo and Lottery Control Act, the department may call to its aid any sheriff, deputy sheriff, or other peace officer in the state.

Sec. 17. That section 9-173, Revised Statutes Supplement, 1984, as amended by section 2, Legislative Bill 486, Eighty-ninth Legislature, First Session, 1985, be amended to read as follows:

9-173. Sections 9-124 to 9-199, and section 1 of this act, and sections 8 to 11 and 18 to 29 of this act shall be known as and may be cited as the Nebraska Bingo and Lottery Control Act.

Sec. 18. (1) No sales agent shall market or sell any pickle card unit to any pickle card operator without first obtaining a license and no pickle card operator shall sell any individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards without first obtaining a license.

(2) Any person wishing to operate as a sales agent or pickle card operator in this state shall make application to the department for a license. Each application for a license shall include the: (a) Name and address of the person applying for the license; (b) name and license number of the licensed organization owning any pickle card units or individual pickle cards being sold as opportunities to participate in a lottery to be marketed or sold by the applicant; and (c) name, address, and license number of a person licensed pursuant to section 9-143 as a member responsible for the proper utilization of gross proceeds for the licensed organization owning the pickle card units or individual pickle cards being sold as opportunities to participate in a lottery.

A statement signed by the person licensed as a member responsible for the proper utilization of gross proceeds signifying that such licensed organization approves the applicant to act as a sales agent or pickle card operator on behalf of such organization shall accompany each application. No person licensed as a member responsible for the proper utilization of gross proceeds shall be licensed as a sales agent or pickle card operator.

A fee of five dollars shall be charged for each license issued pursuant to this section and such licenses

shall be renewed annually.

(3) One license issued to any person or business entity under this section as a pickle card operator shall cover the person or business entity and the employees of the licensed pickle card operator.

Sec. 19. A manufacturer shall obtain a license from the department prior to manufacturing, selling, or supplying to any persons for use within this state any pickle cards or pickle card units or engaging in any interstate activities relating to such pickle cards or pickle card units. The applicant shall include, with the application form supplied by the department, a license fee of one thousand five hundred twenty-five dollars and the following information:

(1) The name and address of the applicant and the name and address of each of its separate locations manufacturing pickle cards and pickle card units;

(2) The name and home address of all owners of the manufacturing business, if the business is not a corporation. If the business is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning ten per cent or more of any class of stock in the corporation shall be supplied;

(3) A full description of each type of pickle card and pickle card unit which the applicant seeks to manufacture or market in this state;

(4) For each such type of pickle card or pickle card unit, the brand name under which it is sold;

(5) If the applicant is a foreign manufacturer, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 21 of this act;

(6) A list of all distributors of such pickle cards and pickle card units in which the applicant has some financial interest and the details of such interest. For the purpose of this subdivision, financial interest shall include, among all other interests, any indebtedness from the applicant to another person or from another person to the applicant in excess of five hundred dollars; and

(7) A current list of all Nebraska-licensed distributors to whom the manufacturer wishes to sell.

The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. The applicant shall comply with all applicable laws of the United States and the State of Nebraska and all applicable rules and regulations of the department.

Sec. 20. Every licensed manufacturer shall keep and maintain a complete set of records which shall include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by the department, including the total number of pickle card

units sold to any Nebraska-licensed distributor. Such records shall be available for inspection by the department. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

Sec. 21. Each manufacturer selling pickle cards and pickle card units in this state that is not a resident or corporation shall designate a natural person who is a resident of and living in this state and is eighteen years of age or older as a resident agent for the purpose of receipt and acceptance of service of process and other communications on behalf of the manufacturer. The name, business address where service of process and delivery of mail can be made, and home address of such agent shall be filed with the department.

Sec. 22. In addition to any other authority of the department and its authorized agents to conduct inspections, the department and its agents shall have the authority to select any pickle card or pickle card unit held by a distributor or manufacturer and to examine the quality and integrity of such card or unit in any manner, including pulling all chances remaining thereon. If the pickle card or pickle card unit so inspected is thereby altered in any manner and no defect, alteration, deceptive condition, or other violation is discovered, the owner shall be reimbursed by the department for the cost of the pickle card or pickle card unit and the pickle card or pickle card unit shall become property of the department.

Sec. 23. (1) Pickle cards shall be constructed so that it is impossible to determine the covered or concealed number, symbol, or set of symbols on the pickle card until it has been dispensed to and opened by the player, by any method or device, including, but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(2) All pickle cards shall be constructed to ensure that, when offered for sale to the public, the pickle card is virtually opaque and free of security defects so that winning pickle cards cannot be determined prior to being opened through the use of high-intensity lights or any other method.

Sec. 24. (1) No manufacturer or representative thereof, with knowledge or in circumstances under which he or she reasonably should have known, shall possess, display, sell, or otherwise furnish to any person any pickle card or pickle card unit:

(a) In which the winning tabs have not been completely and randomly distributed and mixed among all other tabs in a series;

(b) In which the location or approximate location of any of the winning tabs can be determined in advance of opening the tabs in any manner or by any device, including, but not limited to, any pattern in the

manufacture, assembly, or packaging of the tabs or pickle cards by the manufacturer, by any markings on the tabs or container, or by the use of a light; or

(c) Which does not conform in all other respects to the requirements of the Nebraska Bingo and Lottery Control Act as to the manufacture, assembly, or packaging of pickle cards.

(2) No manufacturer or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pickle cards contains more winners than other portions of the series or that any series of pickle cards or pickle card units may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pickle cards before having to pay out winners.

Sec. 25. Each manufacturer of pickle cards or pickle card units shall assign a series number to each series of pickle cards he or she manufactures and place such number on each flare card supplied by such manufacturer and on each pickle card in the series. A manufacturer may, in addition, assign a color trim to the series, and if assigned, each pickle card in the series shall also reflect the color trim. No manufacturer or manufacturer's representative shall sell or furnish to any person a series of pickle cards with the same series number and color code combination as a series which such person has previously purchased or obtained but upon which play has not been completed.

Sec. 26. Each manufacturer shall, no later than thirty days after each quarter, report to the department, on a form supplied by the department, the following information: (1) The total number of pickle card units sold to each distributor; and (2) the type of each pickle card unit sold.

Sec. 27. No manufacturer or manufacturer's representative shall be licensed to conduct any other activity under the Nebraska Bingo and Lottery Control Act.

Sec. 28. (1) The Tax Commissioner may suspend any license issued pursuant to the Nebraska Bingo and Lottery Control Act, except that no order to suspend any license shall be issued except upon a finding by the department that the licensee is not operating in accordance with the purposes and intent of the Nebraska Bingo and Lottery Control Act as provided in section 9-124.

(2) Before any license is suspended, notice of an order to suspend a license shall be mailed to the licensee at least fifteen days before the order of suspension takes effect.

(3) The order of suspension shall be withdrawn if the licensee provides the department with evidence that any prior findings or violations have been corrected and that the licensee is now in full compliance with the

Nebraska Bingo and Lottery Control Act, whether before or after the effective date of the order of suspension.

(4) The Tax Commissioner may issue an order of suspension pursuant to subsections (1), (2), and (3) of this section when an action for cancellation or revocation is pending.

(5) The hearing for cancellation or revocation of the license shall be held within twenty days of the date the suspension takes effect. A request by the licensee to hold the hearing after the end of the twenty-day period shall extend the suspension until the hearing.

(6) The decision of the department shall be made within twenty days of the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of revocation or cancellation is not appropriate, the suspension shall terminate immediately by order of the Tax Commissioner. If the decision is an order for the revocation or cancellation of the license, the suspension shall continue pending an application for rehearing or an appeal of the decision of the department.

(7) Any period of suspension prior to the issuance of an order of cancellation shall not reduce the period of the cancellation. Any period of suspension after the issuance of the order and during a rehearing or appeal shall be counted as a part of the period of cancellation.

Sec. 29. (1) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, the following contraband goods found any place in this state: (a) All pickle cards that are not properly printed as required in section 9-140.01 or on which the tax has not been paid, except for pickle cards in the possession of a licensed distributor or licensed manufacturer; or (b) any pickle cards or lottery or raffle tickets that are being sold without all of the proper licenses.

(2) The Tax Commissioner may, upon satisfactory proof, direct return of any confiscated pickle cards or lottery or raffle tickets when he or she has reason to believe that the owner has not willfully or intentionally evaded any tax or failed to comply with the Nebraska Bingo and Lottery Control Act.

(3) The Tax Commissioner may, upon finding that an owner of contraband goods described in subsection (1) of this section has willfully or intentionally evaded any tax or failed to comply with the Nebraska Bingo and Lottery Control Act, confiscate such goods. Any pickle card units confiscated under this subsection may be offered at public sale to any licensed distributor and the proceeds shall be credited to the General Fund. Any pickle cards that are only a part of a unit and any lottery or raffle tickets confiscated under this subsection shall be destroyed.

(4) The seizure and sale of the pickle cards or lottery or raffle tickets under this section shall not relieve any person from a fine, imprisonment, or other penalty for violation of the Nebraska Bingo and Lottery Control Act.

(5) The Tax Commissioner or his or her agents or employees, when directed to do so by the Tax Commissioner, or any peace officer of this state shall not be responsible for negligence in any court for the seizure or confiscation of any pickle card or lottery or raffle ticket pursuant to this section.

Sec. 30. That section 9-178.01, Revised Statutes Supplement, 1984, be amended to read as follows:

9-178.01. (1) No distributor shall hold a license for bingo, lottery, raffle, or lottery by the sale of pickle cards pursuant to sections 9-141 to 9-143.

(2) If a distributor delivers any pickle card unit, he or she shall deliver such unit only to a designated member of such organization responsible for the proper utilization of gross proceeds licensed pursuant to subdivision (3) of section 9-143 and shall not deliver such unit to any other person, whether or not such person is an agent or vendor of such licensed organization.

(3) No distributor shall offer or agree to offer anything of value to any (a) agent, vendor, or person paid by an organization licensed pursuant to sections 9-141 to 9-143 to sell pickle cards or (b) person whether or not authorized to sell pickle cards for a licensed organization, who is not a member of such organization, in exchange for an agreement or commitment by such agent, vendor, or person to sell pickle cards for the licensed organization, when the licensed organization has purchased the pickle card unit from such distributor.

(4) No distributor, or employee or spouse of any distributor, shall participate in the conduct or operation of any lottery by the sale of pickle cards, bingo, raffle, or lottery except to the exclusive extent of his or her statutory duties as a licensed distributor. Membership in an organization licensed pursuant to sections 9-141 to 9-143 shall not be deemed a violation of this section.

(5) A distributor shall purchase pickle card units only from a licensed manufacturer.

Sec. 31. That section 9-179, Revised Statutes Supplement, 1984, be amended to read as follows:

9-179. (1) No person or organization other than those qualifying under section 9-177 shall be permitted to conduct a lottery by the sale of pickle cards in this state.

(2) No person other than a licensed distributor or manufacturer shall possess pickle cards that are not properly printed with the information required in section 9-140.01.

(3) Any person violating this section shall be

guilty of a Class II misdemeanor.

Sec. 32. That section 9-183, Revised Statutes Supplement, 1984, be amended to read as follows:

9-183. A distributor shall maintain records of total unit sales and, within thirty days after the end of the calendar quarter, report to the department, on a form prescribed by the department, the total number of units sold by such distributor for each quarter, the state identification number assigned to each unit, and the aggregate price for which such cards will be sold by the purchasing organization, and any other information the department deems necessary.

Sec. 33. That section 9-184, Revised Statutes Supplement, 1984, be amended to read as follows:

9-184. Accompanying the quarterly reports required in section 9-183, the distributor shall pay to the department the following taxes: (1) Two dollars per unit on each unit sold by the distributor; and (2) an amount equal to two per cent of the pickle card gross proceeds of each pickle card unit sold by the distributor, computed by using the price for which all pickle cards in the unit will be sold by the purchasing organizations. Such tax shall be credited to the General Fund of the state. The distributor shall include the tax due under this section in the selling price of units and shall ~~not~~ separately state such tax on the invoice.

Sec. 34. That section 9-185, Revised Statutes Supplement, 1984, as amended by section 3, Legislative Bill 486, Eighty-ninth Legislature, First Session, 1985, be amended to read as follows:

9-185. (1) The gross proceeds of any lottery or raffle conducted pursuant to section 9-199 or lottery by the sale of pickle cards shall be used solely for lawful purposes, awarding of prizes, remission of ~~proper~~ taxes imposed under section 9-196, and allowable expenses.

(2) Not less than sixty-five per cent of the gross proceeds of any lottery by the sale of pickle cards shall be used for the awarding of prizes and not more than ten per cent of the gross proceeds shall be used to pay the allowable expenses of operating such lottery.

(3) When the gross proceeds of any lottery conducted pursuant to section 9-199 are greater than one thousand dollars, not less than sixty-five per cent of such proceeds shall be used for the awarding of prizes and not more than ten per cent of the gross proceeds shall be used to pay the allowable expenses of operating such scheme. This subsection shall not apply to raffles or lotteries conducted pursuant to section 1 of this act.

(4) When the gross proceeds of any raffle conducted pursuant to section 9-199 are greater than five thousand dollars, not less than sixty-five per cent of such proceeds shall be used for the awarding of prizes and not more than ten per cent of the gross proceeds shall be used

to pay the allowable expenses of operating such scheme, except that if prizes are donated to the licensee to be awarded in connection with such raffle, the prizes awarded shall have a fair market value equal to at least sixty-five per cent of the gross proceeds and the licensee shall use the proceeds for the remission of taxes imposed under section 9-196, allowable expenses, optional additional prizes, and a lawful purpose pursuant to the Nebraska Bingo and Lottery Control Act. This subsection shall not apply to raffles or lotteries conducted pursuant to section 1 of this act.

(5) For the purpose of this section, allowable expenses shall include: (a) All costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed to participants such as tickets or other paraphernalia; (b) all office expenses; (c) all promotional expenses; (d) all salaries of persons employed to operate the lottery by the sale of pickle cards; (e) any rental or lease expense; and (f) any fee paid to any person associated with the operation of any lottery or raffle conducted pursuant to section 9-199 or lottery by the sale of pickle cards. Allowable expenses shall not include the tax on gross proceeds prescribed in section 9-184.

Sec. 35. That section 9-186, Revised Statutes Supplement, 1984, be amended to read as follows:

9-186. (1) No manufacturer shall sell any pickle card units to any person in Nebraska except a licensed distributor. No distributor licensed in Nebraska shall purchase such units except from manufacturers licensed in Nebraska.

(2) No distributor shall sell any pickle card units except to an organization qualified to conduct a lottery by the sale of pickle cards pursuant to the Nebraska Bingo and Lottery Control Act. No pickle cards shall be sold by a distributor except in the form of pickle card units. No distributor shall sell any pickle card unit for use in this state unless and until a stamp obtained from the department containing an identifying number has been permanently and conspicuously affixed upon the flare card supplied by the manufacturer for identification purposes. Once placed, such stamp shall not be removed or tampered with by any person. The state identification stamp shall be placed on each punch board such that the complete number, together with the symbol appearing thereon, is plainly visible. State identification stamps shall be obtained only from the department and only by a licensed distributor for ten cents each. Such stamps shall be placed by the licensed distributor only on items sold or furnished to licensed organizations in this state. Such stamps shall not be transferred or furnished to any other person unless already placed upon a punch board or pickle card unit. No pickle card unit shall be sold by a distributor without the information required in section

9-140.01 printed on each pickle card in the unit. Each unit shall bear a unique number. Each pickle card in a unit shall bear the number of that particular unit.

Sec. 36. That section 9-187, Revised Statutes Supplement, 1984, be amended to read as follows:

9-187. The department shall have the following powers, functions, and duties:

(1) To revoke, cancel, or suspend for cause any bingo, lottery or raffle conducted pursuant to section 9-199, or pickle card lottery license or any distributor's license or permit issued under the Nebraska Bingo and Lottery Control Act;

~~(2) To cancel for cause any bingo, lottery or raffle conducted pursuant to section 9-199, or pickle card lottery license or any distributor's license;~~

~~(3) To suspend for cause any bingo, lottery or raffle conducted pursuant to section 9-199, or pickle card lottery license or any distributor's license;~~

(2) ~~(4)~~ To enter or to authorize any law enforcement officer to enter at any time upon any licensed bingo premises where bingo or lottery by the sale of pickle cards activity required to be licensed under the Nebraska Bingo and Lottery Control Act is being conducted to determine whether any of the provisions of such act the Nebraska Bingo and Lottery Control Act or any rules or regulations adopted and promulgated under it have been or are being violated, and at such time to examine such premises;

(3) ~~(5)~~ To examine or cause to be examined, under oath, any licensee upon whom notice of a hearing for revocation, or cancellation, or suspension has been served in the manner provided in sections 9-188 and 9-189, and to hear testimony and to examine evidence regarding the licensee's performance of his or her duties;

(4) ~~(6)~~ To revoke, or cancel, ~~or suspend~~ any license, if, upon notice and hearing as provided in sections 9-188 and 9-189, the department determines that the licensee has violated any rule or regulation adopted and promulgated pursuant to the Nebraska Bingo and Lottery Control Act;

(5) ~~(7)~~ To regulate lotteries conducted by counties, cities, and villages pursuant to section 28-1116 to insure fairness, equity, and uniformity; and

to compute, and determine, assess, and collect the amounts required to be paid as taxes imposed by the Nebraska Bingo and Lottery Control Act in the same manner as provided for sales and use taxes in Chapter 77, article 27; and

(7) To confiscate and seize pickle cards or lottery or raffle tickets pursuant to section 29 of this act.

Sec. 37. That section 9-188, Revised Statutes Supplement, 1984, be amended to read as follows:

9-188. Before the adoption of any rule or regulation pursuant to section 9-169, or before the revocation, or cancellation, ~~or suspension~~ of any license pursuant to section 9-187, the department shall set the matter for hearing.

At least ten days before the hearing, the department shall (1) in the case of revocation, ~~suspension~~, or cancellation, serve notice upon the licensee of the time, date, and place of any hearing and issue a public notice of the same or (2) in the case of adoption of any rule or regulation, issue a public notice of the time, date, and place of such hearing.

Sec. 38. That section 9-189, Revised Statutes Supplement, 1984, be amended to read as follows:

9-189. (1) A copy of the ~~rule, regulation,~~ order, or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any ~~rule, regulation,~~ order, decision, or notice. The mailing of any copy of any ~~rule, regulation,~~ ~~or order or decision~~ or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, as referred to in subsection (1) of this section, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department shall deem adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (5) of this section.

(4) Upon the final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered.

Only one rehearing, pursuant to subsection (3) of this section, shall be granted by the department on

application of any one party.

(5) Any decision of the department to revoke, cancel, or suspend, or to refuse to revoke, cancel, or suspend a license may be reversed, vacated, or modified by the district court as provided in section 84-917.

Sec. 39. That section 28-1105, Revised Statutes Supplement, 1984, be amended to read as follows:

28-1105. (1) A person commits the offense of possession of gambling records if, other than as a player, he or she knowingly possesses any writing, paper, instrument, or article which is:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information; or

(b) Of a kind commonly used in the operation, promotion, or playing of a lottery or mutual scheme or enterprise or other scheme not conducted pursuant to sections 28-1114 to 28-1116.01 and the Nebraska Bingo and Lottery Control Pickle Card Regulatory Act and such writing, paper, instrument, or article has been used for the purpose of recording, memorializing, or registering any bet, wager, or other gambling information not permitted by sections 28-1114 to 28-1116.01 and the Nebraska Bingo and Lottery Control Pickle Card Regulatory Act.

(2) Possession of gambling records in the first degree is a Class II misdemeanor.

Sec. 40. Sections 1, 4, 8 to 10, 16, 18 to 27, 29 to 32, 35, and 41 of this act shall become operative on October 1, 1985. The remaining sections of this act shall become operative on their effective date.

Sec. 41. That original sections 9-124, 9-140.01, 9-170, 9-178.01, 9-179, 9-183, and 9-186, Revised Statutes Supplement, 1984, and also section 9-1,100, Revised Statutes Supplement, 1984, are repealed.

Sec. 42. That original sections 9-140.07, 9-140.08, and 9-146, Reissue Revised Statutes of Nebraska, 1943, sections 9-125, 9-126, 9-140.09, 9-145, 9-148, 9-153, 9-184, 9-187 to 9-189, and 28-1105, Revised Statutes Supplement, 1984, section 9-173, Revised Statutes Supplement, 1984, as amended by section 2, Legislative Bill 486, Eighty-ninth Legislature, First Session, 1985, and section 9-185, Revised Statutes Supplement, 1984, as amended by section 3, Legislative Bill 486, Eighty-ninth Legislature, First Session, 1985, are repealed.

Sec. 43. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.