

## NEBRASKA RACETRACK GAMING ACT

9-1101.

Act, how cited.

Sections [9-1101](#) to [9-1118](#) shall be known and may be cited as the Nebraska Racetrack Gaming Act.

9-1102.

Games of chance; permitted; restrictions.

Notwithstanding any other provision of law, and to the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of the Nebraska Racetrack Gaming Act, the operation of games of chance is permitted only by authorized gaming operators within licensed racetrack enclosures as provided in the act.

9-1103.

Terms, defined.

For purposes of the Nebraska Racetrack Gaming Act:

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

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

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

(b) Authorized sporting event does not include an instate collegiate sporting event in which an instate collegiate or university team is a participant, a parimutuel wager, a fantasy sports contest, a minor league sporting event, a sporting event at

the high school level or below regardless of the age of any individual participant, or any sporting event excluded by the commission.

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

(5) Commission means the State Racing and Gaming Commission.

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

(7) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game, a keno lottery conducted in accordance with the Nebraska County and City Lottery Act, or sports wagering. Game of chance does not include any game the operation of which is prohibited at a casino by federal law.

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

(9) International sporting event means an international team or individual sporting event governed by an international sports federation or sport's governing body, including sporting events governed by the International Olympic Committee and the International Federation of Association Football.

(10) Licensed racetrack enclosure means premises at which licensed live horseracing is conducted in accordance with the Constitution of Nebraska and applicable Nebraska law.

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

(12) Prohibited participant means any individual whose participation may undermine the integrity of the wagering or the sporting event or any person who

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

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

(14) Sports wagering means the acceptance of wagers on an authorized sporting event by any system of wagering as authorized by the commission. Sports wagering does not include (a) placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is participating, (b) placing an in-game wager on any game or match of a collegiate sporting event in which a collegiate team from this state is participating, (c) placing a wager on the performance or nonperformance of any individual athlete under eighteen years of age participating in a professional or international sporting event, or (d) placing a wager on the performance of athletes in an individual sporting event excluded by the commission.

9-1104.

Authorized gaming operator; license; authorized activities; condition of licensure; limitation on participation.

(1) The operation of games of chance at a licensed racetrack enclosure may be conducted by an authorized gaming operator who holds an authorized gaming operator license.

(2) No more than one authorized gaming operator license shall be granted for each licensed racetrack enclosure within the state. It shall not be a requirement

that the person or entity applying for or to be granted such authorized gaming operator license hold a racing license or be the same person or entity who operates the licensed racetrack enclosure at which such authorized gaming operator license shall be granted.

(3) Gaming devices, limited gaming devices, and all other games of chance may be operated by authorized gaming operators at a licensed racetrack enclosure.

(4) No person younger than twenty-one years of age shall play or participate in any way in any game of chance or use any gaming device or limited gaming device at a licensed racetrack enclosure.

(5) No authorized gaming operator shall permit an individual younger than twenty-one years of age to play or participate in any game of chance or use any gaming device or limited gaming device conducted or operated pursuant to the Nebraska Racetrack Gaming Act.

(6) If the licensed racetrack enclosure at which such authorized gaming operator conducts games of chance does not hold the minimum number of live racing meets required under section [2-1205](#), the authorized gaming operator shall be required to cease operating games of chance at such licensed racetrack enclosure until such time as the commission determines the deficiency has been corrected.

9-1105.

Commission; administer act.

For purposes of providing the necessary licensing and regulation of the operation of games of chance by authorized gaming operators within licensed racetrack enclosures pursuant to the Nebraska Racetrack Gaming Act, the commission shall administer the Nebraska Racetrack Gaming Act. The commission shall have full jurisdiction over and shall supervise all gaming operations pursuant to the Nebraska Racetrack Gaming Act.

9-1106.

Commission; powers and duties.

The commission shall:

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

(2) Regulate the operation of games of chance to prevent and eliminate corrupt practices and fraudulent behavior, and thereby promote integrity, security, and honest administration in, and accurate accounting of, the operation of games of chance which are subject to the act.

(3) Establish criteria to license applicants for authorized gaming operator licenses and all other types of gaming licenses for other positions and functions incident to the operation of games of chance, including adopting, promulgating, and enforcing rules, regulations, and eligibility standards for such authorized gaming operator licenses, gaming licenses, and positions and functions incident to the operation of games of chance.

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

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

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

(7) Grant, deny, revoke, and suspend authorized gaming operator licenses and all other types of gaming licenses based upon reasonable criteria and procedures established by the commission to facilitate the integrity, productivity, and lawful conduct of gaming within the state.

(8) Grant or deny for cause applications for authorized gaming operator licenses of not less than twenty years in duration, subject to an annual review by the commission and receipt by the commission of a fifty-thousand-dollar annual

review fee, with no more than one such authorized gaming operator license granted for any licensed racetrack enclosure within the state.

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

(10) Adopt and promulgate rules and regulations for the standards of manufacture of gaming equipment.

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

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

(13) Administer oaths or affirmations as necessary to carry out the act.

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

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

(b) For any licensed racetrack enclosure with an authorized gaming operator operating game of chance for more than one year, three times the highest daily number of gross receipts derived from wagering on games of chance during the twelve months preceding the violation at such licensed racetrack enclosure gaming facility per violation.

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

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

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

(18) Promote treatment of gaming-related behavioral disorders.

(19) Establish procedures for the governance of the commission.

(20) Acquire necessary offices, facilities, counsel, and staff.

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

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

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

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

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

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

- (c) The circuit scheduled in the state and if any overlapping dates would be beneficial to the circuit and market.
  - (d) The total number of horses available for the total annual schedule, with separate analysis for thoroughbred races and quarter horse races.
  - (e) The purse money available per race and per track.
  - (f) The strength of the potential and ongoing simulcast market.
  - (g) The staffing patterns and problems that exist at each track, including unfilled positions.
  - (h) The positive and negative effects, including financial, on each existing racetrack at the time of the market analysis in the event the commission approves a new racetrack application.
  - (i) The potential to attract new owners and horses from other states.
  - (j) The market potential for expansion at each licensed racetrack enclosure to the live race meet days and the number of live horseraces required by section [2-1205](#), and the room for expansion, if any, for additional licensed racetrack enclosures into the market in Nebraska and the locations most suitable for such expansion; and
  - (k) Any other data and analysis required by the commission.
- (25) Conduct or cause to be conducted a statewide casino gaming market analysis study across the state and within each location of a racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties. Such market analysis study shall be completed as soon as practicable but not later than January 1, 2025, and every five years thereafter and shall be submitted electronically to the General Affairs Committee of the Legislature and to the Governor. The market analysis study shall include:
- (a) A comprehensive assessment of the potential casino gaming market conditions.



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

(c) Information identifying underperforming or underserved markets within Nebraska.

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

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

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

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

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

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

(i) The population of such counties.

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

(iii) Unemployment rates in such counties.

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

(v) Retail sales in such counties.

(vi) Property values in such counties.

(vii) An analysis of the impact on community services, including police protection expenditures, fire protection expenditures, road, bridge, and sidewalk expenditures, and capital project expenditures in such counties.

(viii) Impact on community health in such counties.

(ix) Divorce rates in such counties.

(x) Information on available education and education levels in such counties.

(xi) Life expectancy in such counties.

(xii) Homelessness in such counties; and

(xiii) Any other data and analysis required by the commission.

(27) Approve or deny an application for any licensed racetrack enclosure which is not in existence or operational as of April 20, 2022, or any licensed racetrack enclosure in existence and operational as of November 1, 2020, that applies to move such licensed racetrack enclosure pursuant to section [2-1205](#), on the basis of the placement and location of such licensed racetrack enclosure and based on the market as it exists as of the most recent issuance of the statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies conducted by the commission pursuant to this section. The commission shall deny a licensed racetrack enclosure or gaming operator license application if it finds that approval of such application in such placement and location would be detrimental to the racing or gaming market that exists across the state based on the most recent statewide horseracing market analysis, statewide casino gaming market analysis, and statewide socioeconomic-impact studies; and

(28) Do all things necessary and proper to carry out its powers and duties under the Nebraska Racetrack Gaming Act, including the adoption and promulgation of rules and regulations and such other actions as permitted by the Administrative Procedure Act.

9-1107.

Racing and Gaming Commission's Racetrack Gaming Fund; created; use; investment.

The Racing and Gaming Commission's Racetrack Gaming Fund is created. The fund shall consist of all licenses, application, and other fees collected under the Nebraska Racetrack Gaming Act. The fund shall be used for administration of the Nebraska Racetrack Gaming Act. Any money in the Racing and Gaming Commission's Racetrack Gaming Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

9-1108.

Gaming operator license; applicant; fingerprinting and criminal history record information check; costs.

Any person applying for a gaming operator license pursuant to the Nebraska Racetrack Gaming Act shall be subject to fingerprinting and a check of such person's criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation for the purpose of determining whether the commission has a basis to deny the license application or to suspend, cancel, or revoke the person's license. The applicant shall pay the actual cost of any fingerprinting or check of such person's criminal history record information.

9-1109.

Credit cards; prohibited; applicant or authorized gaming operator; requirements.

Credit cards shall not be accepted by any authorized gaming operator for payment for any wager or to purchase coins, tokens, or other forms of credit to be wagered on any game of chance. An account for the purpose of participating in a game of chance under the Nebraska Racetrack Gaming Act may only be funded with cash, coins, a debit card, or a direct link to an account with a financial institution in the name of the player. The commission shall require an authorized gaming operator or applicant for an authorized gaming operator license to demonstrate in the license application and internal controls application the ability to restrict credit card transactions.

9-1110.

Sports wagering.

(1) The commission may permit an authorized gaming operator to conduct sports wagering. Any sports wager shall be placed in person or at a wagering kiosk in the

designated sports wagering area at the licensed racetrack enclosure. A parimutuel wager in accordance with sections [2-1201](#) to [2-1218](#) may be placed in the designated sports wagering area at the licensed racetrack enclosure.

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

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

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

(b) Other specific controls as designated by the commission.

(c) A process to impose limitations or notification easily and prominently for wagering parameters, including, but not limited to, deposits and wagers; and

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

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

9-1111.

Game of chance; cheating; gaming device; manipulation; penalties.

(1) Any person who knowingly cheats at any game of chance is guilty of a Class I misdemeanor.

(2) Any person who manipulates, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational

purpose of the component, including varying the pull of the handle of a gaming machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game, is guilty of a Class I misdemeanor.

9-1112.

Participation in unlawful manner; violations; penalties.

(1) Any person who, in playing any game of chance designed to be played with or to receive or to be operated by tokens approved by the commission or by lawful currency of the United States, knowingly uses tokens other than those approved by the commission, uses currency that is not lawful currency of the United States, or uses currency not of the same denomination as the currency intended to be used in that game is guilty of a Class I misdemeanor.

(2) Any person who knowingly has in such person's possession within a gaming facility any device intended to be used to violate the Nebraska Racetrack Gaming Act is guilty of a Class I misdemeanor.

(3) Any person, other than a duly authorized employee of an authorized gaming operator acting in furtherance of such person's employment within a gaming facility, who knowingly has in such person's possession within a gaming facility any key or device known by such person to have been designed for the purpose of and suitable for opening, entering, or affecting the operation of any game, any drop box, or any electronic or mechanical device connected to the game or drop box, is guilty of a Class I misdemeanor.

(4) Any person who knowingly and with intent to use any paraphernalia for manufacturing slugs for cheating or has such paraphernalia in such person's possession is guilty of a Class I misdemeanor. Possession of more than two items of the equipment, products, or material described in subdivision (4)(a) or (b) of this section permits a rebuttable presumption that the possessor intended to use such paraphernalia for cheating. For purposes of this subsection, paraphernalia for manufacturing slugs (a) means the equipment, products, and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing, or concealing a counterfeit facsimile of tokens approved by the commission or a lawful coin of the United States, the use of which is unlawful pursuant to the Nebraska Racetrack Gaming

Act, and (b) includes: (i) Lead or lead alloy; (ii) molds, forms, or similar equipment capable of producing a likeness of a gaming token or coin; (iii) melting pots or other receptacles; (iv) torches; and (v) tongs, trimming tools, or other similar equipment.

9-1113.

Gaming device: acts prohibited; penalties.

(1) A person who manufactures, sells, or distributes a device that is intended by such person to be used to violate any provision of the Nebraska Racetrack Gaming Act is guilty of a Class I misdemeanor.

(2) A person who marks, alters, or otherwise modifies any gaming device in a manner that (a) affects the result of a wager by determining win or loss or (b) alters the normal criteria of random selection that (i) affects the operation of a game of chance or (ii) determines the outcome of a game of chance is guilty of a Class I misdemeanor.

(3) A person who knowingly possesses any gaming device that has been manufactured, sold, or distributed in violation of the Nebraska Racetrack Gaming Act is guilty of a Class I misdemeanor.

9-1114.

Making false or misleading statement or entry or failure to maintain or make an entry, penalty.

A person who, in an application, book, or record required to be maintained or in a report required to be submitted by the Nebraska Racetrack Gaming Act or a rule or regulation adopted and promulgated by the commission, knowingly makes a statement or entry that is false or misleading or fails to maintain or make an entry the person knows is required to be maintained or made is guilty of a Class IV felony.

9-1115.

Participation prohibited; violations; penalties.

(1) A person who knowingly permits an individual whom the person knows is younger than twenty-one years of age to participate in a game of chance is guilty of a Class I misdemeanor.

(2) A person who participates in a game of chance when such person is younger than twenty-one years of age at the time of participation is guilty of a Class I misdemeanor.

9-1116.

Violations; general penalty provisions.

A person who willfully violates, attempts to violate, or conspires to violate any of the provisions of the Nebraska Racetrack Gaming Act for which no other penalty is provided is guilty of a Class I misdemeanor.

9-1117.

Authorized gaming operator; license; application; contents.

(1) Any applicant for an authorized gaming operator license shall include in the application to the commission the following:

(a) A market assessment that includes the feasibility and sustainability of the proposed licensed racetrack enclosure for operating games of chance in such proposed location as part of the market in Nebraska at the time of the application, including a study of the impact of such facility on both horseracing and the operation of games of chance in the state.

(b) An analysis of the anticipated impact on infrastructure, including water, electricity, natural gas, roads, and public safety, including police and fire departments.

(c) Zoning and initial planning approval from the city nearest the site of the proposed licensed racetrack enclosure.

(d) A full disclosure of the applicant's record as a racetrack and games of chance operator, including multi-jurisdictional experience.

(e) Evidence of how the proposed licensed racetrack enclosure will improve and give back in a meaningful and sustained way to the community in which the applicant is proposing to build such facility; and

(f) Any other information required by the commission.

(2) The commission may reject an application that does not meet the requirements of this section.

9-1118.

List of self-excluded persons.

(1) The commission shall establish a list of persons self-excluded from licensed racetrack enclosures in Nebraska. A person may request such person's name to be placed on the list of self-excluded persons by filing an application with the commission, on forms prescribed by the commission, requesting to be self-excluded and agreeing to take personal responsibility for not visiting licensed racetrack enclosures in Nebraska. The application shall specify that, by applying to be a person self-excluded from licensed racetrack enclosures, the applicant agrees that during any period of voluntary exclusion the person is not eligible to collect any winnings or recover any losses resulting from any gaming activity at a licensed racetrack enclosure or be present at a licensed racetrack enclosure.

(2) The commission shall adopt and promulgate rules and regulations for the list of self-excluded persons, including:

(a) Procedures for placement on the list.

(b) The terms for self-removal from the list.

(c) Procedures for providing the list to licensed racetrack enclosures; and

(d) Other such procedures the commission determines are necessary for the effective and efficient administration of the list.

(3) The commission may revoke, limit, condition, suspend, or fine an authorized gaming operator or any officer, employee, or agent of the operator if such licensee knowingly or recklessly fails to exclude or eject from its premises any person on the list of self-excluded persons.

(4) An authorized gaming operator or the officers, agents, and employees of the operator shall not market directly to any person on any list of self-excluded persons. An authorized gaming operator shall deny access to complimentary check-cashing privileges, club programs, and other similar benefits to any person on the list of self-excluded persons.



(5) The list of self-excluded persons shall not be open to public inspection. Nothing in this section shall prohibit an authorized gaming operator from disclosing the identity of any person on the list of self-excluded persons to any affiliated gaming facility operator or other jurisdiction for the limited purpose of assisting in the proper administration of responsible gaming programs in Nebraska or as authorized by law in another jurisdiction.

(6) A person placed on the list of self-excluded persons is prohibited from entering a licensed racetrack enclosure in Nebraska and is ineligible to place a legal wager in Nebraska at such licensed racetrack enclosure. A person on the list of self-excluded persons shall not collect any winnings or recover losses resulting from prohibited gaming activity, and such winnings shall be forfeited to the commission to be used for problem gambling treatment, prevention, and education programs.

9-1201.

Annual gaming tax.

To the full extent permitted by the Constitution of Nebraska, including amendments to the Constitution of Nebraska adopted contemporaneously with the enactment of sections [9-1201](#) to [9-1208](#), an annual gaming tax is hereby imposed on the operation of all games of chance by authorized gaming operators within licensed racetrack enclosures.

9-1202.

Terms, defined.

For purposes of sections [9-1201](#) to [9-1209](#):

(1) Authorized gaming operator means a person or entity licensed pursuant to the Nebraska Racetrack Gaming Act to operate games of chance within a licensed racetrack enclosure.

(2) Designated sports wagering area means an area, as designated by the gaming commission, in which sports wagering is conducted.

(3) Dollar amount collected means the total dollar amount wagered by players of games of chance less the total dollar amount returned to such players as prizes.

(4) Game of chance means any game which has the elements of chance, prize, and consideration, including any wager on a slot machine, table game, counter game, or card game, a keno lottery conducted in accordance with the Nebraska County and City Lottery Act, or sports wagering. Game of chance does not include any game the operation of which is prohibited at a casino by federal law.

(5) Gaming commission means the State Racing and Gaming Commission.

(6) Gross gaming revenue means the dollar amount collected by an authorized gaming operator from operation of all games of chance within a licensed racetrack enclosure as computed pursuant to applicable statutes, rules, and regulations less the total of (a) all federal taxes, other than income taxes, imposed on the operation of such games of chance and (b) the amount provided to players by an authorized gaming operator as promotional gaming credits, but only to the extent such promotional gaming credits are redeemed by players to play one or more games of chance being operated by the authorized gaming operator;

(7) Licensed racetrack enclosure means a premises at which licensed live horseracing is conducted in accordance with the Constitution of Nebraska and applicable Nebraska law.

(8) Promotional gaming credit means a credit, token, or other item of value provided by an authorized gaming operator to a player for the purpose of enabling the player to play a game of chance; and

(9) Sports wagering has the same meaning as in section [9-1103](#).

9-1203.

Tax; amount; collection.

An annual gaming tax is imposed on gross gaming revenue generated by authorized gaming operators within licensed racetrack enclosures from the operation of all games of chance equal to twenty percent of such gross gaming revenue. The gaming commission shall collect the tax and shall account for and remit such tax as set forth by law.

9-1204.

Tax; proceeds; distribution.

Of the tax imposed by section [9-1203](#), seventy-five percent shall be remitted to the State Treasurer for credit as follows: Two and one-half percent to the Compulsive Gamblers Assistance Fund, two and one-half percent to the General Fund, and seventy percent to the Property Tax Credit Cash Fund. The remaining twenty-five percent of the tax shall be remitted to the county treasurer of the county in which the licensed racetrack enclosure is located to be distributed as follows: (1) If the licensed racetrack enclosure is located completely within an unincorporated area of a county, the remaining twenty-five percent shall be distributed to the county in which such licensed racetrack enclosure is located; or (2) if the licensed racetrack enclosure is located at least partially within the limits of a city or village in such county, one-half of the remaining twenty-five percent shall be distributed to such county and one-half of the remaining twenty-five percent to the city or village in which such licensed racetrack enclosure is at least partially located.

9-1205.

Tax; report.

Every authorized gaming operator subject to taxation as set forth in sections [9-1201](#) to [9-1209](#) shall pay such tax by the fifteenth of each month to the gaming commission and make report thereof to the gaming commission under such rules and regulations as may be prescribed by the gaming commission.

9-1206.

Tax; delinquent; penalty; interest.

If the tax provided for in sections [9-1201](#) to [9-1209](#) is not paid within such time as provided in section [9-1205](#) or as may be prescribed for payment thereof by rules and regulations prescribed by the gaming commission, the same shall become delinquent and a penalty of ten percent shall be added thereto, together with interest at the rate specified in section [45-104.02](#), as such rate may from time to time be adjusted, until paid.

9-1207.

Reports; violations; penalty.

Any authorized gaming operator that willfully fails, neglects, or refuses to make any report required by sections [9-1201](#) to [9-1209](#), or by rules and regulations

adopted and promulgated under sections [9-1201](#) to [9-1209](#), or that knowingly makes any false statement in any such report, is guilty of a Class IV felony.

9-1208.

Severability.

If any section or provision of sections [9-1201](#) to [9-1208](#) is determined by a court of competent jurisdiction to be unconstitutional or otherwise void or invalid for any reason, such determination shall not affect the validity of sections [9-1201](#) to [9-1208](#) as a whole or any part thereof, other than the part so determined to be unconstitutional or otherwise void or invalid.

9-1209.

Failure to pay tax or fee; lien; procedures; priority; extension; termination; release or subordination.

(1) If any person liable to pay any tax or fee under the Nebraska Racetrack Gaming Act or sections [9-1201](#) to [9-1208](#) neglects or refuses to pay such tax or fee after demand, the amount of such tax or fee, including any interest, penalty, and additions to such tax, and such additional costs that may accrue, shall be a lien in favor of the gaming commission upon all property and rights to property, whether real or personal, then owned by such person or acquired by such person thereafter and prior to the expiration of the lien. Unless another date is specifically provided by law, such lien shall arise at the time of the assessment and shall remain in effect: (a) For three years from the time of the assessment or one year after the expiration of an agreement between the gaming commission and a taxpayer for payment of tax which is due, whichever is later, if the notice of lien is not filed for record in the office of the appropriate filing officer; (b) for ten years from the time of filing for record in the office of the appropriate filing officer; or (c) until such amounts have been paid or a judgment against such person arising out of such liability has been satisfied or has become unenforceable by reason of lapse of time, unless a continuation statement is filed prior to the lapse.

(2)(a) The gaming commission may present for filing or file for record in the office of the appropriate filing officer a notice of lien specifying the year the tax was due, the tax program, and the amount of the tax and any interest, penalty, or addition to such tax that are due. Such notice shall be filed for record in the office

of the appropriate filing officer within three years after the time of assessment or within one year after the expiration of an agreement between the gaming commission and a taxpayer for payment of tax which is due, whichever is later. Such notice shall contain the name and last-known address of the taxpayer, the last four digits of the taxpayer's social security number or federal identification number, the gaming commission's serial number, and a statement to the effect that the gaming commission has complied with all provisions of the Nebraska Racetrack Gaming Act and sections [9-1201](#) to [9-1208](#) in the determination of the amount of the tax and any interest, penalty, and addition to such tax required to be paid.

(b) If the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any state or the District of Columbia, before the end of the time period in subdivision (2)(a) of this section, the notice shall be filed for record within the time period or within six months after the assets are released by the court, whichever is later.

(3)(a) A lien imposed upon real property pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be valid against any subsequent creditor when notice of such lien and the amount due has been presented for filing by the gaming commission in the office of the Secretary of State and filed in the office of the register of deeds. A lien imposed upon personal property pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be valid against any subsequent creditor when notice of such lien and the amount due has been filed by the gaming commission in the office of the Secretary of State.

(b) In the case of any prior mortgage on real property or secured transaction covering personal property so written as to secure a present debt and future advances, the lien provided in this section, when notice thereof has been filed in the office of the appropriate filing officer, shall be subject to such prior lien unless the gaming commission has notified the lienholder in writing of the recording of such tax lien, in which case the lien of any indebtedness thereafter created under such mortgage or secured transaction shall be junior to the lien provided for in this section.

(4) The lien may, within ten years from the date of filing for record of the notice of lien in the office of the appropriate filing officer, be extended by filing for record a continuation statement. Upon timely filing of the continuation statement, the

effectiveness of the original notice shall be continued for ten years after the last date to which the filing was effective. After such period the notice shall lapse in the manner prescribed in subsection (1) of this section unless another continuation statement is filed prior to such lapse.

(5) When a termination statement of any tax lien issued by the gaming commission is filed in the office where the notice of lien is filed, the appropriate filing officer shall enter such statement with the date of filing in the state tax lien index where notice of the lien so terminated is entered and shall file the termination statement with the notice of the lien.

(6) The gaming commission may at any time, upon request of any party involved, release from a lien all or any portion of the property subject to any lien provided for in the Uniform State Tax Lien Registration and Enforcement Act or subordinate a lien to other liens and encumbrances if the gaming commission determines that (a) the tax amount and any interest, penalties, and additions to such tax have been paid or secured sufficiently by a lien on other property, (b) the lien has become legally unenforceable, (c) a surety bond or other satisfactory security has been posted, deposited, or pledged with the gaming commission in an amount sufficient to secure the payment of such taxes and any interest, penalties, and additions to such taxes, or (d) the release, partial release, or subordination of the lien will not jeopardize the collection of such taxes and any interest, penalties, and additions to such taxes.

(7) A certificate by the gaming commission stating that any property has been released from the lien or the lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has in fact been released or the lien has been subordinated pursuant to the certificate.