

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 266

Introduced by Karpisek, 32; Fischer, 43.

Read first time January 14, 2009

Committee: General Affairs

A BILL

1 FOR AN ACT relating to gaming; to amend sections 2-1201, 2-1201.01,
2 2-1202, 2-1203, 2-1203.01, 2-1204, 2-1205, 2-1206,
3 2-1209, 2-1213, and 2-1219, Reissue Revised Statutes of
4 Nebraska; to adopt the Racetrack Gaming Act; to provide
5 for regulation of racetrack gaming; to create funds; to
6 provide civil penalties; to change provisions relating to
7 the State Racing Commission and horseracing; to harmonize
8 provisions; to provide severability; and to repeal the
9 original sections.

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

1 Section 1. Sections 1 to 16 of this act shall be known
2 and may be cited as the Racetrack Gaming Act.

3 Sec. 2. The purpose of the Racetrack Gaming Act is to
4 facilitate the implementation of the provisions of Article III,
5 section 24, of the Constitution of Nebraska relating to racetrack
6 gaming. The act applies to racetrack gaming when such gaming is
7 permitted by the Constitution of Nebraska.

8 Sec. 3. In construing the Racetrack Gaming Act, it is
9 the intent of the Legislature that the following policies be
10 implemented:

11 (1) Racetrack gaming shall be licensed, regulated, and
12 administered under the control and supervision of the State Racing
13 Commission. No racetrack gaming license shall be issued unless the
14 governing body of the political subdivision where the racetrack is
15 located or to be located has first granted approval;

16 (2) The proceeds from racetrack gaming shall be
17 appropriated and allocated consistent with Article III, section
18 24, of the Constitution of Nebraska, and all allocations of such
19 funds are to be independently audited with reports of such audits
20 to be delivered to the commission, the racetrack gaming licensees,
21 the Governor, and the Legislature. Racetrack gaming shall be
22 operated as a self-sufficient, revenue-raising operation for the
23 benefit of the State of Nebraska through the Highway Trust Fund
24 and the Compulsive Gamblers Assistance Fund and for the support
25 and encouragement of the horseracing and other equine industries

1 in the state;

2 (3) No state taxes other than the allocation to the state
3 treasury shall be assessed on gross gaming revenue. Recipients of
4 allocations of gross gaming revenue are not exempted by the act
5 from liability for state income tax on their allocation, nor are
6 the occupational licensees or licensed contractors, distributors,
7 or manufacturers exempted by the act from state income tax or other
8 taxes. Winnings by wagerers at racetrack gaming devices are subject
9 to state income taxes; and

10 (4) The gross gaming revenue shall be received by the
11 commission from racetrack gaming licensees and remitted to the
12 State Treasurer for credit to the Gaming Revenue Cash Fund. The
13 fund shall be allocated in accordance with Article III, section
14 24, of the Constitution of Nebraska and shall be appropriated
15 by the Legislature consistent with such section. Other funds
16 received by the commission in the form of fees, advance payments
17 for work such as investigations and auditing, and payments other
18 than gross gaming revenue which are related to racetrack gaming
19 shall be paid into the Gaming Administration Cash Fund. The
20 Gaming Administration Cash Fund shall be appropriated by the
21 Legislature for the commission's expenses for administration of
22 racetrack gaming, and balances at the end of a biennium shall be
23 reappropriated.

24 Sec. 4. For purposes of the Racetrack Gaming Act:

25 (1) Central computer means a computer or computer system

1 which is under the care and control of the commission, which
2 is electronically connected to every racetrack gaming device
3 utilized by any racetrack gaming licensee or contract licensee
4 to conduct gaming, and which can monitor the wagers, prizes
5 or winnings, running totals, daily, weekly, monthly, and annual
6 totals, and other information required by the commission for such
7 monitoring, reconciling the reports and counts of gross gaming
8 revenue, malfunctions, irregularities, and any other regulatory and
9 enforcement issues;

10 (2) Commission means the State Racing Commission;

11 (3) Distributor means a person who markets, sells,
12 leases, or otherwise provides gaming devices and related gaming
13 equipment or systems;

14 (4) Gaming means games of chance played for money,
15 credit, or any representation of value using player-activated
16 gaming devices;

17 (5) Gaming agent means an employee of the commission
18 who, among other duties, may be stationed at a racetrack gaming
19 facility, with duties to oversee gaming operations for the
20 commission, to provide a conduit to the commission for public
21 comments or complaints, to monitor financial activities related to
22 the gaming operations, and to assist in enforcing laws, rules, and
23 regulations relating to racetrack gaming. The gaming agent may also
24 be granted authority by the commission to receive or oversee the
25 receipt and verification of gross gaming revenue and to assist or

1 oversee the allocation of funds from the Gaming Revenue Cash Fund;

2 (6) Gaming device means electronic and video gaming
3 devices operated at racetrack gaming facilities;

4 (7) Gaming floor means the building or portion of a
5 building where racetrack gaming is conducted, within the racetrack
6 enclosure as designated by the commission by rule and regulation or
7 in the license for racetrack gaming;

8 (8) Gaming licensee means:

9 (a) Those entities qualified under section 2-1204 who,
10 upon approval by the commission, are granted by the commission a
11 racetrack gaming license;

12 (b) Those entities who, upon approval by the commission,
13 are granted a contract license permitting them to contract with a
14 racetrack gaming licensee to provide such services as:

15 (i) Installation of gaming equipment or related computer
16 systems;

17 (ii) Overall or partial management of racetrack gaming
18 activity;

19 (iii) Furnishing or maintenance of the gaming devices to
20 be utilized for racetrack gaming; or

21 (iv) Security;

22 (c) Those persons who receive occupational licenses to
23 work at a racetrack gaming facility in an occupation which
24 the commission by its rules and regulations deems sufficiently
25 sensitive to require licensing as a prerequisite to employment at

1 a facility;

2 (d) Distributors of equipment or systems used for
3 racetrack gaming who, upon approval by the commission, receive
4 distributors' licenses; and

5 (e) Manufacturers of racetrack gaming products who, upon
6 approval of the commission, receive manufacturers' licenses;

7 (9) Gross gaming revenue means all cash or other
8 consideration utilized to play gaming devices operated at a
9 racetrack gaming facility, less all cash or other consideration
10 paid out to players as winnings or prizes;

11 (10) Manufacturer means a person who designs, assembles,
12 fabricates, produces, constructs, or otherwise prepares a product
13 or a component part of a product of any implement of gaming usable
14 in the lawful conduct of racetrack gaming;

15 (11) Political subdivision means a municipality or county
16 having primary jurisdiction over a racetrack. If such a facility is
17 within the boundary limits of a municipality, the municipality is
18 deemed to have primary jurisdiction, and if not, then the county is
19 deemed to have primary jurisdiction;

20 (12) Racetrack means a racetrack owned, operated, and
21 licensed pursuant to the licensing provisions in sections 2-1201 to
22 2-1229 and which conducts live thoroughbred horseracing;

23 (13) Racetrack enclosure means all real property utilized
24 for the conduct of a thoroughbred race meeting, including
25 the racetrack, grandstand, concession stands, offices, barns,

1 barn areas, employee housing facilities, parking lots, and any
2 additional areas designated by the commission; and

3 (14) Racetrack gaming facility means the physical places
4 where all aspects of racetrack gaming are conducted by a racetrack
5 gaming licensee, its contract licensees, or any occupational
6 licensees or their officers, agents, or employees, whether or
7 not accessible to the public, including, but not limited to, the
8 gaming floor where gaming devices are played, the concession areas
9 accessible to the public who are admitted to the gaming floor,
10 the offices and counting areas, the electronic and computer areas,
11 the customer service and cashier areas, the security and monitoring
12 areas, and any other areas designated by the commission in the
13 racetrack gaming license.

14 Sec. 5. (1) The commission shall regulate and administer
15 racetrack gaming. The commission has the following powers and
16 duties for the purpose of administering, regulating, and enforcing
17 racetrack gaming:

18 (a) All powers necessary and proper to fully and
19 effectively execute Article III, section 24, of the Constitution of
20 Nebraska;

21 (b) Jurisdiction and supervision over all racetrack
22 gaming in Nebraska;

23 (c) The power to investigate applicants and gaming
24 licensees and determine the eligibility of applicants for licenses,
25 including: Racetrack gaming licenses; contract licenses for

1 any person who contracts with a racetrack gaming licensee to
2 provide any form of management, operational services, maintenance,
3 accounting, security, or major aspects of gaming operations;
4 occupational licenses; manufacturers' licenses; and distributors'
5 licenses;

6 (d) The power to investigate alleged violations of rules,
7 regulations, or laws;

8 (e) The power to conduct hearings;

9 (f) The power to issue subpoenas for the attendance of
10 witnesses and subpoenas duces tecum for the production of books,
11 records, and other relevant objects or documents;

12 (g) The power to administer oaths and affirmations to
13 witnesses;

14 (h) The power to prescribe forms to be used by gaming
15 licensees;

16 (i) The power to revoke, suspend, or renew licenses of
17 gaming licensees and, in lieu of or in addition to suspension or
18 revocation, impose a fine in an amount not to exceed ten thousand
19 dollars upon a finding that a rule or regulation has been violated
20 by a gaming licensee. The amount of the fine shall be proportional
21 to the seriousness of the violation and the extent to which the
22 gaming licensee derived or sought financial gain as a result of the
23 violation;

24 (j) The power to hire employees to gather information,
25 conduct investigations, and carry out other tasks; and

1 (k) License racetrack gaming, contractors with racetrack
2 gaming licensees, personnel involved in racetrack gaming,
3 manufacturers and distributors, and such other persons as deemed
4 necessary by the commission if the license applicants meet
5 eligibility standards established by the commission;

6 (l) Adopt rules and regulations to protect or enhance
7 the credibility and integrity of racetrack gaming, including, but
8 not limited to, licensing, license fees, application fees, funds
9 distribution, and security;

10 (m) Establish and collect license and application fees
11 imposed under the Racetrack Gaming Act and remit the fees to the
12 State Treasurer for credit to the Gaming Administration Cash Fund
13 and remit gross gaming revenue to the State Treasurer for credit to
14 the Gaming Revenue Cash Fund;

15 (n) Approve the design, appearance, aesthetics, and
16 construction of racetrack gaming facilities;

17 (o) Establish and implement a voluntary exclusion program
18 that meets the following requirements:

19 (i) Except as provided by rule and regulation of the
20 commission, a person who participates in the voluntary exclusion
21 program agrees to refrain from entering a facility at which gaming
22 is conducted or another facility under the jurisdiction of the
23 commission;

24 (ii) The name of a person participating in the voluntary
25 exclusion program will be included on a list of persons excluded

1 from all facilities under the jurisdiction of the commission;

2 (iii) Except as provided by rule or regulation of the
3 commission, a person who participates in the voluntary exclusion
4 program may not petition the commission for readmittance to a
5 facility under the jurisdiction of the commission;

6 (iv) The list of participants entering the voluntary
7 exclusion program and the personal information of the participants
8 are confidential and may only be disseminated by the commission to
9 the operator of a facility under the jurisdiction of the commission
10 for purposes of enforcement and to other entities upon request by
11 the participant and agreement by the commission;

12 (v) An operator of a facility under the jurisdiction of
13 the commission shall make all reasonable attempts as determined by
14 the commission to avoid all direct marketing efforts to a person
15 participating in the voluntary exclusion program; and

16 (vi) An operator of a facility under the jurisdiction of
17 the commission may not cash the check of a person participating in
18 the voluntary exclusion program or extend credit to the person in
19 any manner;

20 (p) Adopt rules and regulations for the following
21 purposes:

22 (i) Administering the act;

23 (ii) Establishing the conditions under which racetrack
24 gaming may be conducted;

25 (iii) Providing for the prevention of practices

1 detrimental to the public interest;

2 (iv) Inspection of racetrack gaming facilities and
3 periodic review of licenses; and

4 (v) Imposing penalties for violations of the act;

5 (g) Create temporary rules and regulations by directive,
6 if the directives are approved by the Attorney General and the
7 Governor, but such directives shall be promptly adopted and
8 promulgated and subjected to the rulemaking procedures in the
9 Administrative Procedure Act; and

10 (r) The power to take any reasonable or appropriate
11 action to enforce the Racetrack Gaming Act.

12 (2) The commission may assign to its executive director
13 any duty imposed upon the commission by the act. The executive
14 director shall perform the duties assigned by the commission.
15 The executive director may exercise any power conferred upon the
16 commission that is consistent with the duties assigned to the
17 executive director.

18 (3) Final decisions of the commission may be appealed,
19 and the appeal shall be in accordance with the Administrative
20 Procedure Act.

21 (4) The commission shall remit administrative fines
22 collected under this section to the State Treasurer for
23 distribution in accordance with Article VII, section 5, of the
24 Constitution of Nebraska.

25 Sec. 6. (1) A person shall not be issued a license

1 to conduct racetrack gaming, a contract license, an occupational
2 license, a distributor's license, or a manufacturer's license
3 unless the person has completed and signed an application on the
4 form prescribed by the commission. The application shall include
5 the full name, residence, date of birth, and other personal
6 identifying information of the applicant that the commission
7 deems necessary. The application shall also indicate whether the
8 applicant has any of the following:

9 (a) A record of conviction of a felony or of any
10 misdemeanor involving violence toward a person, theft, or any other
11 form of dishonesty;

12 (b) An addiction to alcohol or a controlled substance; or

13 (c) A history of mental illness.

14 (2) An applicant shall submit a nonrefundable application
15 fee as set forth in this section, a picture, a set of fingerprints,
16 and a description of physical characteristics to the commission
17 in the manner prescribed on the application form. Any or all
18 of such information may be submitted to the Federal Bureau of
19 Investigation.

20 (3) The commission shall require an applicant for a
21 license to submit with the written application a nonrefundable
22 application fee of five thousand dollars for a racetrack gaming
23 license, five thousand dollars for a contract license, twenty-five
24 dollars for an occupational license, and two hundred fifty dollars
25 for a distributor's or manufacturer's license. If a license is

1 granted, the commission shall not issue the license until the
2 licensee pays an additional nonrefundable fee of fifty thousand
3 dollars for a racetrack gaming license, twenty-five thousand
4 dollars for a contract license, and no additional fee for an
5 occupational license, a distributor's license, or a manufacturer's
6 license.

7 (4) The commission shall also charge each license
8 applicant the costs associated with the search and classification
9 of fingerprints required in the licensing process and background
10 investigations conducted by or for the commission. This fee is in
11 addition to any other license or application fee charged by the
12 commission.

13 (5) Before a license is granted, the commission shall
14 conduct a background investigation of the applicant for the
15 license. In processing an application for a racetrack gaming
16 license, the commission shall give notice and hold one or more
17 hearings at which the licensing is considered and then granted or
18 denied. In processing any other license application, the commission
19 may hold such hearings as it deems appropriate before deciding to
20 grant or deny the license.

21 (6) For purposes of this section, applicant includes each
22 member of the governing board and each principal officer of a
23 corporation or other entity applying for a racetrack gaming license
24 or contract license.

25 (7) A racetrack gaming licensee, a contract licensee, and

1 an occupational licensee shall consent in writing as a condition
2 of the license to the search, without a warrant, by agents of the
3 commission designated by the executive director of the commission,
4 of the licensee's person, personal property, and effects, and
5 premises which are located at the racetrack gaming facility or
6 adjacent facilities under control of the licensee, in order to
7 inspect or investigate for violations of the Racetrack Gaming Act
8 or rules and regulations adopted and promulgated by the commission.

9 Sec. 7. (1) If the commission is satisfied that the
10 Racetrack Gaming Act and the rules and regulations applicable to
11 gaming licensees have been or will be complied with, the commission
12 shall issue a license for a period of not more than five years to
13 an applicant for a racetrack gaming license or a contract license
14 and not more than one year for an occupational, distributor's, or
15 manufacturer's license.

16 (2) A racetrack gaming license shall only be granted to
17 an applicant upon the express written condition that the applicant
18 shall not, by a lease, contract, understanding, or arrangement of
19 any kind, grant, assign, or turn over to any other entity or person
20 the operation of a racetrack gaming facility. This section does not
21 prohibit operation of a racetrack gaming facility under a contract
22 license approved by the commission or by a contract licensee.

23 (3) A racetrack gaming license or contract license may
24 not be granted or if already granted may be rescinded if there is
25 substantial evidence that any of the following apply:

1 (a) The applicant has been suspended from operating a
2 game of chance or gambling operation in another jurisdiction by a
3 board or commission of that jurisdiction;

4 (b) The applicant has not demonstrated financial
5 responsibility sufficient to meet adequately the requirements of
6 the enterprise proposed;

7 (c) The applicant is not the true owner of the racetrack
8 gaming enterprise proposed, if required;

9 (d) The applicant is not the sole owner, and other
10 persons have ownership in the enterprise, which fact has not been
11 disclosed;

12 (e) The applicant is a corporation and ten percent or
13 more of the stock of the corporation is subject to a contract or
14 option to purchase at any time during the period for which the
15 license is to be issued unless the contract or option was disclosed
16 to the commission and the commission thereafter approved the sale
17 or transfer during the period of the license;

18 (f) The applicant has knowingly made a false statement of
19 a material fact to the commission;

20 (g) The applicant has failed to meet a monetary
21 obligation in connection with a racetrack gaming facility or
22 enterprise; or

23 (h) The applicant for a racetrack gaming license does not
24 hold or obtain before any racetrack gaming is begun, a valid track
25 license for thoroughbred horseracing.

1 (4) A license may also not be granted if there is
2 substantial evidence that the applicant is not of good repute and
3 moral character or if the applicant has pled guilty to, or has been
4 convicted of, a felony.

5 (5)(a) A racetrack gaming licensee, contract licensee,
6 and occupational licensee are each prohibited from loaning to
7 any person money or any other thing of value for the purpose
8 of permitting that person to wager on any game of chance at a
9 racetrack gaming facility.

10 (b) A racetrack gaming licensee and contract licensee
11 is prohibited from permitting a financial institution, vendor, or
12 other person to dispense cash or credit through an electronic
13 or mechanical device, including, but not limited to, a satellite
14 terminal that is located on the gaming floor, unless it is approved
15 by the commission.

16 (6) A racetrack gaming license shall be issued only
17 if the governing body of the political subdivision approves the
18 conduct of the racetrack gaming.

19 (7) Upon a violation of any of the conditions listed in
20 this section, the commission shall immediately revoke the license,
21 subject to subsequent appeal pursuant to the Administrative
22 Procedure Act.

23 (8) The commission shall require each racetrack gaming
24 licensee or contract licensee to post in conspicuous locations
25 specified by the commission the average percentage payout from the

1 gaming devices.

2 Sec. 8. (1) Except as permitted in this section, a
3 racetrack gaming licensee or contract licensee shall permit no form
4 of wagering on gaming devices.

5 (2) A racetrack gaming licensee or contract licensee may
6 receive a gaming wager only from a person twenty-one years of age
7 or older present in the racetrack gaming facility.

8 (3) A person under the age of twenty-one years shall
9 not make or attempt to make a gaming wager in a racetrack gaming
10 facility and shall not be allowed on the gaming floor, except that
11 a person eighteen years of age or older may be employed to work
12 on the gaming floor, but only in employment unrelated to racetrack
13 gaming as determined by the commission.

14 Sec. 9. (1) A racetrack gaming licensee shall keep its
15 books and records so as to show clearly all of the following:

16 (a) The total number of admissions for each day of
17 operation; and

18 (b) The total amounts of money wagered and paid out as
19 winnings and the gross gaming revenue for each day of operation.

20 (2) The racetrack gaming licensee shall furnish to the
21 commission reports and information as the commission may require
22 with respect to its activities. The gross gaming revenue receipts
23 shall be separately handled and accounted for from all other
24 money received from operation of a racetrack gaming facility. The
25 commission may designate a representative or gaming agent to enter

1 a racetrack gaming facility who shall have full access to all
2 places within the racetrack gaming facility, who shall directly
3 supervise the handling and accounting of all gross gaming revenue
4 receipts, and who shall supervise and check the admissions. The
5 compensation of such representative or agent shall be fixed by the
6 commission but shall be paid by the licensee, along with reasonably
7 incurred expenses.

8 Sec. 10. (1) A manufacturer or distributor shall annually
9 apply for a license upon a form prescribed by the commission
10 before the first day of April in each year and shall submit the
11 appropriate license fee. An applicant shall provide the necessary
12 information as the commission requires.

13 (2) A racetrack gaming licensee shall acquire all gaming
14 devices or implements of gaming from a distributor licensed
15 pursuant to this section. A racetrack gaming licensee shall
16 not sell or give gaming devices or implements of gaming to
17 another licensee unless the transaction is first approved by the
18 commission.

19 (3) Neither a racetrack gaming licensee nor a contract
20 licensee shall be a manufacturer or distributor.

21 (4) The commission may suspend or revoke the license of
22 a distributor or manufacturer for a violation of the Racetrack
23 Gaming Act or a rule and regulation adopted pursuant to the
24 act committed by the distributor or manufacturer or an officer,
25 director, employee, or agent of the manufacturer or distributor.

1 (5) A manufacturer or distributor shall provide the
2 commission with written notice showing the items shipped to a
3 gaming licensee.

4 Sec. 11. A manufacturer or distributor shall deliver
5 gaming devices or implements of gaming to a location approved by
6 the commission for inspection and approval prior to being placed
7 in operation, and they shall be inspected and approved by the
8 commission prior to being placed in operation.

9 Sec. 12. The commission may utilize gaming agents
10 to monitor racetrack gaming, to communicate public comments or
11 complaints about the racetrack gaming operations to the commission,
12 to oversee the financial and security operations and procedures,
13 and to assist the commission in enforcing the Racetrack Gaming Act
14 and the rules and regulations. The salary and authorized expenses
15 incurred by the gaming agent assigned to a racetrack gaming
16 facility shall be paid by the racetrack gaming licensee to the
17 commission and placed in the Gaming Administration Cash Fund and
18 used to pay the salary and expenses of the gaming agent assigned to
19 the racetrack gaming facility of the licensee.

20 Sec. 13. The commission shall ensure that each racetrack
21 gaming licensee agrees as a condition of its racetrack gaming
22 license to connect each gaming device placed in use for play
23 in full and constant connection to a central computer, with its
24 base terminal at commission offices. The commission, by rule
25 and regulation, shall require each racetrack gaming licensee to

1 pay a proportionate, allocated share of the cost of installation
2 and maintenance of the central computer and for any replacement,
3 repair, operation, and use of the system.

4 Sec. 14. The commission may, by rule and regulation,
5 determine and require contracts between racetrack gaming licensees
6 and their contractors to include specific terms to protect the
7 integrity of the gaming operations, to protect and hold harmless
8 the state, the commission, the members of the commission, and its
9 employees, to include insurance appropriate to the risks, which
10 insurance policies may include the licensees, the commission, the
11 members of the commission, and the state as additional insureds,
12 and to include any other terms, including bond requirements,
13 appropriate for the particular contract.

14 Sec. 15. Those corporations, associations, boards,
15 societies, or other entities eligible for licenses to conduct
16 racetrack gaming at racetrack gaming facilities shall be exempt
17 from the provisions of the Uniform Disposition of Unclaimed
18 Property Act with respect to racetrack gaming activities.

19 Sec. 16. (1) The Gaming Administration Cash Fund is
20 created. Any money in the fund available for investment shall be
21 invested by the state investment officer pursuant to the Nebraska
22 Capital Expansion Act and the Nebraska State Funds Investment Act.

23 (2) The Gaming Revenue Cash Fund is created. Any money in
24 the fund available for investment shall be invested by the state
25 investment officer pursuant to the Nebraska Capital Expansion Act

1 and the Nebraska State Funds Investment Act.

2 Sec. 17. Section 2-1201, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 2-1201 There hereby is created a State Racing Commission
5 consisting of three members who shall be appointed by the Governor
6 and subject to confirmation by a majority of the members elected
7 to the Legislature and may be for cause removed by the Governor.
8 One member shall be appointed each year for a term of three years.
9 The members shall serve until their successors are appointed and
10 qualified. Not more than two members of the commission shall belong
11 to the same political party; no two of the members shall reside,
12 when appointed, in the same congressional district; and no two
13 of the members shall reside in any one county. Any vacancy shall
14 be filled by appointment by the Governor for the unexpired term.
15 Beginning at the start of any member's term following January
16 1, 2012, the annual salary of the members shall be seventy-five
17 thousand dollars. ~~The members shall serve without compensation,~~
18 ~~but shall~~ be reimbursed for their actual expenses incurred in the
19 performance of their duties as provided in sections 81-1174 to
20 81-1177. ~~for state employees.~~ The members of the commission shall
21 be bonded or insured as required by section 11-201.

22 Sec. 18. Section 2-1201.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 2-1201.01 The purpose of the State Racing Commission is
25 to provide statewide regulation of horseracing and racetrack gaming

1 in order to prevent and eliminate corrupt practices and fraudulent
2 behavior, and thereby maintain a high level of integrity and
3 honesty in the horseracing industry of Nebraska and in racetrack
4 gaming and to insure that all funds received by the commission are
5 properly distributed.

6 Sec. 19. Section 2-1202, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 2-1202 The commission shall elect one of its members to
9 be ~~chairman thereof,~~ chairperson, and it shall be authorized to
10 employ a ~~secretary~~ an executive director and such other assistants
11 and employees as may be necessary to carry out the purposes of
12 sections 2-1201 to 2-1218 and the Racetrack Gaming Act. ~~Such~~
13 ~~secretary~~ The executive director shall have no other official
14 duties. The ~~secretary~~ executive director shall keep a record of
15 the proceedings of the commission, preserve the books, records,
16 and documents entrusted to his or her care, and perform such other
17 duties as the commission shall prescribe; and the commission shall
18 require the ~~secretary~~ executive director to give bond in such
19 sum as it may fix, conditioned for the faithful performance of
20 his or her duties. The commission shall be authorized to fix the
21 compensation of its ~~secretary,~~ executive director, and also the
22 compensation of its other employees, subject to the approval of the
23 Governor. The commission shall have an office at such place within
24 the state as it may determine, and shall meet at such times and
25 places as it shall find necessary and convenient for the discharge

1 of its duties.

2 Sec. 20. Section 2-1203, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 2-1203 The State Racing Commission shall have power to
5 prescribe and enforce rules and regulations governing horseraces
6 and race meetings licensed as provided in sections 2-1201
7 to 2-1242. Such rules and regulations shall contain criteria
8 to be used by the commission for decisions on approving and
9 revoking track licenses and licenses for teleracing facilities and
10 telephonic wagering and setting racing dates.

11 The commission may revoke or suspend licenses issued to
12 racing industry participants and may, in lieu of or in addition
13 to such suspension or revocation, impose a fine in an amount not
14 to exceed ~~five~~ ten thousand dollars upon a finding that a rule
15 or regulation has been violated by a licensed racing industry
16 participant. The exact amount of the fine shall be proportional
17 to the seriousness of the violation and the extent to which the
18 licensee derived financial gain as a result of the violation.

19 The commission may delegate to a board of stewards such
20 of the commission's powers and duties as may be necessary to carry
21 out and effectuate the purposes of sections 2-1201 to 2-1242.

22 Any decision or action of such board of stewards may be
23 appealed to the commission or may be reviewed by the commission on
24 its own initiative. The board of stewards may impose a fine not
25 to exceed fifteen hundred dollars upon a finding that a rule or

1 regulation has been violated.

2 The commission shall remit administrative fines collected
3 under this section to the State Treasurer for distribution in
4 accordance with Article VII, section 5, of the Constitution of
5 Nebraska.

6 Sec. 21. Section 2-1203.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 2-1203.01 The State Racing Commission shall:

9 (1) Enforce all state laws covering horseracing as
10 required by sections 2-1201 to 2-1242 and enforce rules and
11 regulations adopted and promulgated by the commission under the
12 authority of section 2-1203;

13 (2) License racing industry participants, race officials,
14 mutuel employees, teleracing facility employees, telephone deposit
15 center employees, concessionaires, and such other persons as deemed
16 necessary by the commission and approve and license teleracing
17 facilities and telephonic wagering if the license applicants meet
18 eligibility standards established by the commission;

19 (3) Prescribe and enforce security provisions, including,
20 but not limited to, the restricted access to areas within track
21 enclosures, backstretch areas, and teleracing facilities, and
22 prohibitions against misconduct or corrupt practices;

23 (4) Determine or cause to be determined by chemical
24 testing and analysis of body fluids whether or not any prohibited
25 substance has been administered to the winning horse of each race

1 and any other horse selected by the board of stewards;

2 (5) Verify the certification of horses registered as
3 being Nebraska-bred under section 2-1213; ~~and~~

4 (6) Collect and verify the amount of revenue received by
5 the commission under section 2-1208; ~~and-~~

6 (7) Enforce all laws, rules, and regulations covering
7 racetrack gaming under the Racetrack Gaming Act.

8 Sec. 22. Section 2-1204, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 2-1204 The Nebraska State Fair Board, a county fair
11 board, a county agricultural society for the improvement of
12 agriculture organized under the County Agricultural Society Act,
13 or a corporation or association of persons organized and carried
14 on for civic purposes or which conducts a livestock exposition for
15 the promotion of the livestock or horse-breeding industries of the
16 state and which does not permit its members to derive personal
17 profit from its activities by way of dividends or otherwise
18 may apply to the State Racing Commission for a license to
19 conduct horseracing at a designated place within the state. In
20 addition, a corporation, association, limited liability company,
21 or partnership, of which all the owners, shareholders, members,
22 or partners consist of such a board, society, corporation, or
23 association, may apply for such a license. Such application shall
24 be filed with the ~~secretary~~ executive director of the commission
25 at least sixty days before the first day of the horserace meeting

1 which such board, society, corporation, or association or other
2 eligible entity proposes to hold or conduct, shall specify the day
3 or days when and the exact location where it is proposed to conduct
4 such racing, and shall be in such form and contain such information
5 as the commission shall prescribe.

6 The Nebraska State Fair Board, a county fair board, a
7 county agricultural society for the improvement of agriculture
8 organized under the County Agricultural Society Act, or a
9 corporation or association of persons organized and carried on for
10 civic purposes or which conducts a livestock exposition for the
11 promotion of the livestock or horse-breeding industries of the
12 state and which does not permit its members to derive personal
13 profit from its activities by way of dividends or otherwise may
14 also apply to the commission for a separate license to conduct
15 racetrack gaming at a racetrack as defined in section 3 of this
16 act. In addition, a corporation, association, limited liability
17 company, or partnership, of which all the owners, shareholders,
18 members, or partners consist of such a board, society, corporation,
19 or association, may apply for such a license. The horseracing
20 and parimutuel licenses and the racetrack gaming licenses may be
21 applied for at the same time. A racetrack gaming license shall
22 not be granted to an applicant unless the applicant also holds or
23 is granted a horseracing and parimutuel license for thoroughbred
24 horseracing. The commission shall process and decide to grant or
25 reject all such applications in accordance with the Racetrack

1 Gaming Act and the applicable rules and regulations.

2 Sec. 23. Section 2-1205, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 2-1205 If the commission is satisfied that its rules
5 and regulations and all provisions of sections 2-1201 to 2-1218
6 have been and will be complied with, it may issue a horseracing
7 license for a period of not more than ~~one year~~, five years. If
8 the commission is satisfied that its rules and regulations and
9 all provisions of the Racetrack Gaming Act have been and will
10 be complied with, it may issue a racetrack gaming license or
11 a contract license for a period of not more than five years.
12 Occupational, distributors', and manufacturers' licenses related
13 to racetrack gaming shall have a term of one year. Any gaming
14 licensee may apply for renewal of the license pursuant to the
15 act and the rules and regulations of the commission. The license
16 shall set forth the name of the licensee, the place where the
17 races or race meetings ~~are~~ or racetrack gaming is to be held,
18 and the time and number of days during which racing may be
19 conducted by such licensee. Any such license issued shall not be
20 transferable or assignable. The commission shall annually review
21 the licensee's qualifications, conduct, and compliance with the
22 terms of the license, the rules and regulations of the commission,
23 and laws and shall have the power to ~~revoke~~ take disciplinary
24 actions against any license issued at any time for good cause upon
25 reasonable notice and hearing. No license shall be granted to any

1 corporation or association except upon the express condition that
2 it shall not, by any lease, contract, understanding, or arrangement
3 of whatever kind or nature, grant, assign, or turn over to any
4 person, corporation, or association not authorized or licensed for
5 the operation or management of any racing or race meeting or
6 racetrack gaming licensed under such sections or the act or of
7 the parimutuel system of wagering described in section 2-1207 or
8 in any manner permit any person, corporation, or association other
9 than the licensee to have any share, percentage, or proportion of
10 the money received for admissions to the racing or race meeting
11 or from the operation of the parimutuel system or any portion of
12 the gross gaming revenue which is to be paid to the commission and
13 credited to the Gaming Revenue Cash Fund; and any violation of such
14 conditions shall authorize and require the commission immediately
15 to revoke such license.

16 Sec. 24. Section 2-1206, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 2-1206 Every board, society, corporation, or ~~an~~ association
19 or other entity licensed to conduct horseracing or racetrack gaming
20 under sections 2-1201 to 2-1218 and the Racetrack Gaming Act shall,
21 before ~~said~~ a license is issued, give a bond to the State of
22 Nebraska in such reasonable sum as the ~~commission~~ State Racing
23 Commission shall ~~fix~~, determine is appropriate, with a surety
24 or sureties to be approved by the commission, conditioned to
25 faithfully make the payments prescribed by ~~said~~ such sections, to

1 keep its books and records and make reports as ~~herein~~ provided
2 in such sections and act, and to conduct its racing and racetrack
3 gaming in conformity with the provisions of ~~said~~ such sections and
4 the rules and regulations ~~prescribed by~~ of the commission.

5 Sec. 25. Section 2-1209, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 2-1209 Out of the funds received pursuant to section
8 2-1208, the expenses of the commissioners, the compensation and
9 reasonable expenses of the ~~secretary~~, executive director of the
10 State Racing Commission, assistants, and employees, and the other
11 reasonable expenses of the ~~State Racing Commission~~, commission,
12 including suitable furniture, equipment, supplies, and office
13 expenses, shall first be paid. The commission shall maintain a
14 reserve fund balance which shall not exceed ten percent of the
15 appropriation for the commission for the calendar year. If the
16 commission has unexpended funds in excess of its appropriation
17 and authorized reserve fund balance at the end of the calendar
18 year, such funds shall be credited to the General Fund. Sums paid
19 out by the commission shall be subject to the general policy for
20 disbursement of funds by agencies of the state, including regular
21 audit.

22 Sec. 26. Section 2-1213, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 2-1213 (1)(a) No racing under sections 2-1201 to 2-1218
25 shall be permitted on Sunday except when approved by a majority

1 of the members of the State Racing Commission upon application
2 for approval by any racetrack. Such approval shall be given after
3 the commission has considered: (i) Whether Sunday racing at the
4 applicant track will tend to promote and encourage agriculture
5 and horse breeding in Nebraska; (ii) whether the applicant track
6 operates under a license granted by the commission; (iii) whether
7 the applicant track is in compliance with all applicable health,
8 safety, fire, and police rules and regulations or ordinances; (iv)
9 whether the denial of Sunday racing at the applicant track would
10 impair such track's economic ability to continue to function under
11 its license; and (v) whether the record of the public hearing
12 held on the issue of Sunday racing at the applicant track shows
13 reasonable public support. Notice of such public hearing shall be
14 given at least ten days prior thereto by publication in a newspaper
15 having general circulation in the county in which the applicant
16 track is operating, and the commission shall conduct a public
17 hearing in such county. The commission may adopt, promulgate,
18 and enforce rules and regulations governing the application and
19 approval for Sunday racing in addition to its powers in section
20 2-1203. If the commission permits racing on Sunday, the voters may
21 prohibit such racing in the manner prescribed in section 2-1213.01.
22 If approval by the commission for Sunday racing at the applicant
23 track is granted, no racing shall occur on Sunday until after 1
24 p.m.

25 (b) No license shall be granted for racing on more than

1 one racetrack in any one county, except that the commission may, in
2 its discretion, grant a license to any county agricultural society
3 to conduct racing during its county fair notwithstanding a license
4 may have been issued for racing on another track in such county.

5 (c) Since the purpose of sections 2-1201 to 2-1218 is
6 to encourage agriculture and horse breeding in Nebraska, every
7 licensee shall hold at least one race on each racing day limited to
8 Nebraska-bred horses, including thoroughbreds or quarter horses.
9 Three percent of the first money of every purse won by a
10 Nebraska-bred horse shall be paid to the breeder of such horse.
11 Beginning September 1, 2005, through January 1, 2008, each licensee
12 who holds a license for quarter horseracing shall, for each live
13 racing day, give preference to Nebraska-bred quarter horses in at
14 least one race in lieu of the requirements of this subdivision.

15 (2) For purposes of this section, Nebraska-bred horse
16 shall mean a horse registered with the Nebraska Thoroughbred or
17 Quarter Horse Registry and meeting the following requirements: (a)
18 It shall have been foaled in Nebraska; (b) its dam shall have
19 been registered, prior to foaling, with the Nebraska Thoroughbred
20 or Quarter Horse Registry; and (c) its dam shall have been
21 continuously in Nebraska for ninety days immediately prior to
22 foaling, except that such ninety-day period may be reduced to
23 thirty days in the case of a mare in foal which is purchased at
24 a nationally recognized thoroughbred or quarter horse blood stock
25 sale, the name and pedigree of the mare being listed in the sale

1 catalog, and which is brought into this state and remains in this
2 state for thirty days immediately prior to foaling.

3 The requirement that a dam shall be continuously in
4 Nebraska for either ninety days or thirty days, as specified in
5 subdivision (2)(c) of this section, shall not apply to a dam which
6 is taken outside of Nebraska to be placed for sale at a nationally
7 recognized thoroughbred or quarter horse blood stock sale, the name
8 and pedigree of the mare being listed in the sale catalog, or for
9 the treatment of an extreme sickness or injury, if written notice
10 of such proposed sale or treatment is provided to the ~~secretary~~
11 executive director of the commission within three days of the date
12 such horse is taken out of the state.

13 The commission may designate official registrars for
14 the purpose of registration and to certify the eligibility of
15 Nebraska-bred horses. An official registrar shall perform such
16 duties in accordance with policies and procedures adopted and
17 promulgated by the commission in the current rules and regulations
18 of the commission. The commission may authorize the official
19 registrar to collect specific fees as would reasonably compensate
20 the registrar for expenses incurred in connection with registration
21 of Nebraska-bred horses. The amount of such fee or fees shall be
22 established by the commission and shall not be changed without
23 commission approval. Fees shall not exceed one hundred dollars per
24 horse.

25 Any decision or action taken by the official registrar

1 shall be subject to review by the commission or may be taken up by
2 the commission on its own initiative.

3 Sec. 27. Section 2-1219, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 2-1219 (1) No horse in which any member of the State
6 Racing Commission, a member of a commissioner's immediate family,
7 or any employee of the commission ~~or its employees~~ has any
8 interest shall be raced at any meet under the jurisdiction of the
9 commission.

10 (2) No member of the State Racing Commission ~~or its~~
11 ~~employees~~ commission, member of a commissioner's immediate family,
12 or employee of the commission shall have a pecuniary interest or
13 engage in any private employment in a profession or business which
14 is regulated by or interferes or conflicts with the performance or
15 proper discharge of the duties of the commission.

16 (3) No member of the State Racing Commission ~~or its~~
17 ~~employees~~ commission, member of a commissioner's immediate family,
18 or employee of the commission shall wager or cause a wager to be
19 placed on the outcome of any race at a race meeting which is under
20 the jurisdiction and supervision of the commission nor at any time
21 participate directly or indirectly in gaming at racetrack gaming
22 facilities.

23 (4) No member of the State Racing Commission ~~or its~~
24 ~~employees~~ commission, member of a commissioner's immediate family,
25 or employee of the commission shall have a pecuniary interest or

1 engage in any private employment in a business which does business
2 with any racing association licensed by the commission or in any
3 business issued a concession operator license by the commission or
4 any business associated with racetrack gaming.

5 (5) Any commission member ~~or employee violating this~~
6 ~~section~~ who violates this section, or whose immediate family member
7 violates this section, shall forfeit his or her office.

8 (6) The commission shall include in its rules and
9 regulations prohibitions against actual or potential specific
10 conflicts of interest on the part of racing officials and other
11 individuals licensed by the commission, including those licensed in
12 association with racetrack gaming.

13 (7) For purposes of this section, immediate family means
14 a spouse, parent, son, daughter, stepson, or stepdaughter.

15 Sec. 28. If any section in this act or any part of any
16 section is declared invalid or unconstitutional, the declaration
17 shall not affect the validity or constitutionality of the remaining
18 portions.

19 Sec. 29. Original sections 2-1201, 2-1201.01, 2-1202,
20 2-1203, 2-1203.01, 2-1204, 2-1205, 2-1206, 2-1209, 2-1213, and
21 2-1219, Reissue Revised Statutes of Nebraska, are repealed.