

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 775**

Introduced by Lowe, 37; Brewer, 43; Hardin, 48; Holdcroft, 36; Hughes,  
24.

Read first time January 18, 2023

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to the Nebraska Racetrack Gaming Act; to amend
- 2 sections 9-1103 and 9-1106, Reissue Revised Statutes of Nebraska; to
- 3 redefine a term; to change powers and duties of the State Racing and
- 4 Gaming Commission; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-1103, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (12) Prohibited participant means any individual whose participation  
23 may undermine the integrity of the wagering or the sporting event or any  
24 person who is prohibited from sports wagering for other good cause shown  
25 as determined by the commission, including, but not limited to: (a) Any  
26 individual placing a wager as an agent or proxy; (b) any person who is an  
27 athlete, a coach, a referee, or a player in any sporting event overseen  
28 by the sports governing body of such person based on publicly available  
29 information; (c) a person who holds a paid position of authority or  
30 influence sufficient to exert influence over the participants in a  
31 sporting event, including, but not limited to, any coach, manager,

1 handler, or athletic trainer, or a person with access to certain types of  
2 exclusive information, on any sporting event overseen by the sports  
3 governing body of such person based on publicly available information; or  
4 (d) a person identified as prohibited from sports wagering by any list  
5 provided by a sports governing body to the commission;

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

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

20 Sec. 2. Section 9-1106, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 9-1106 The commission shall:

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

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

1 act;

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

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

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

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

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

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

31 (9) Conduct background investigations of applicants for authorized

1 gaming operator licenses and all other types of gaming licenses;

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

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

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

11 (13) Administer oaths or affirmations as necessary to carry out the  
12 act;

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

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

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

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

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

30 (17) Collect and account for any gaming taxes assessed to authorized  
31 gaming operators and remit such taxes to the State Treasurer or county

1 treasurer as required by Nebraska law;

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

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

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

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

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

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

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

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

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

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

29 (d) The total number of horses available for the total annual  
30 schedule, with separate analysis for thoroughbred races and quarterhorse  
31 races;

- 1 (e) The purse money available per race and per track;
- 2 (f) The strength of the potential and ongoing simulcast market;
- 3 (g) The staffing patterns and problems that exist at each track,  
4 including unfilled positions;
- 5 (h) The positive and negative effects, including financial, on each  
6 existing racetrack at the time of the market analysis in the event the  
7 commission approves a new racetrack application;
- 8 (i) The potential to attract new owners and horses from other  
9 states;
- 10 (j) The market potential for expansion at each licensed racetrack  
11 enclosure to the live race meet days and the number of live horseraces  
12 required by section 2-1205, and the room for expansion, if any, for  
13 additional licensed racetrack enclosures into the market in Nebraska and  
14 the locations most suitable for such expansion; and
- 15 (k) Any other data and analysis required by the commission;
- 16 (25) Conduct or cause to be conducted a statewide casino gaming  
17 market analysis study across the state and within each location of a  
18 racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and Platte  
19 counties. Such market analysis study shall be completed as soon as  
20 practicable but not later than January 1, 2025, and every five years  
21 thereafter and shall be submitted electronically to the General Affairs  
22 Committee of the Legislature and to the Governor. The market analysis  
23 study shall include:
- 24 (a) A comprehensive assessment of the potential casino gaming market  
25 conditions;
- 26 (b) An evaluation of the effects on the Nebraska market from  
27 competitive casino gaming locations outside of the state;
- 28 (c) Information identifying underperforming or underserved markets  
29 within Nebraska;
- 30 (d) A comprehensive study of potential casino gaming revenue in  
31 Nebraska; and

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

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

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

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

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

17 (i) The population of such counties;

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

20 (iii) Unemployment rates in such counties;

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

22 (v) Retail sales in such counties;

23 (vi) Property values in such counties;

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

28 (viii) Impact on community health in such counties;

29 (ix) Divorce rates in such counties;

30 (x) Information on available education and education levels in such  
31 counties;

- 1 (xi) Life expectancy in such counties;
- 2 (xii) Homelessness in such counties; and
- 3 (xiii) Any other data and analysis required by the commission;

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

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

23 (29) Recommend to the Governor and to the General Affairs Committee  
24 of the Legislature amendments to all laws administered by the commission;  
25 and

26 (30) As appropriate and as recommended by the executive director of  
27 the commission, delegate to an adjudication subcommittee of the  
28 commission those powers and duties of the commission as necessary to  
29 carry out and effectuate the purposes of the Nebraska Racetrack Gaming  
30 Act and investigate and respond to violations of the Nebraska Racetrack  
31 Gaming Act. The adjudication subcommittee staff shall be appointed by the

1 executive director. No person may be appointed to the adjudication  
2 subcommittee if such person is involved in the investigation of any  
3 violation being heard or investigated by the subcommittee. Any action of  
4 the adjudication subcommittee may be appealed to the commission or may be  
5 reviewed by the commission on its own initiative. The adjudication  
6 subcommittee may impose a fine, consistent with the Nebraska Racetrack  
7 Gaming Act, not to exceed fifteen thousand dollars, upon a finding that  
8 the act or any rule or regulation adopted and promulgated under the act  
9 has been violated. The commission shall remit any fines collected under  
10 this subdivision to the State Treasurer for distribution in accordance  
11 with Article VII, section 5, of the Constitution of Nebraska.

12       Sec. 3.    Original sections 9-1103 and 9-1106, Reissue Revised  
13 Statutes of Nebraska, are repealed.