

ENGROSSED LEGISLATIVE BILL 357

Introduced by General Affairs Committee: Holdcroft, 36, Chairperson; Andersen, 49; Cavanaugh, J., 9; Clouse, 37; DeKay, 40; Quick, 35; Rountree, 3; Storm, 23.

A BILL FOR AN ACT relating to the State Racing and Gaming Commission; to amend sections 2-1203, 2-1203.01, 2-1203.02, 2-1204, 2-1223, 2-1225, 2-1244, 2-1245, 9-1101, 9-1108, 9-1203, 9-1205, 9-1206, 9-1207, 9-1208, 9-1209, and 25-21,252, Reissue Revised Statutes of Nebraska, and sections 2-1201, 2-1202, 2-1205, 9-1103, 9-1106, and 9-1107, Revised Statutes Cumulative Supplement, 2024; to provide, change, and eliminate definitions; to change provisions relating to the powers and duties of the State Racing and Gaming Commission and licenses issued by the commission; to require licensure of a racetrack enclosure as prescribed; to change provisions relating to the Nebraska Racetrack Gaming Act; to rename and change provisions relating to the Racing and Gaming Commission's Racetrack Gaming Fund; to transfer funds; to eliminate the Racing and Gaming Commission's Racing Cash Fund; to harmonize provisions; to repeal the original sections; and to outright repeal sections 2-1222 and 9-1202, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 2-1201, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-1201 (1) There hereby is created a State Racing and Gaming Commission. For purposes of sections 2-1201 to 2-1229 and section 6 of this act, commission means the State Racing and Gaming Commission.

(2) The commission shall consist of seven members who shall be appointed by the Governor and subject to confirmation by a majority of the members elected to the Legislature and may, after an opportunity to be heard, be removed for cause by the Governor. A violation by a member of the commission of section 2-1219 or any malfeasance, misfeasance, or neglect in office shall be considered cause for removal. No person shall be appointed to the commission,

or continue to hold that office after appointment, while holding any other office or position under the laws of this state, any other state, or the United States. One member of the commission shall be appointed from each congressional district, as such districts existed on January 1, 2010, and four members of the commission shall be appointed at large for terms as follows:

(a) The member representing the second congressional district who is appointed on or after April 1, 2010, shall serve until March 31, 2014, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(b) The member representing the third congressional district who is appointed on or after April 1, 2011, shall serve until March 31, 2015, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(c) The member representing the first congressional district who is appointed on or after April 1, 2012, shall serve until March 31, 2016, and until his or her successor is appointed and qualified. Thereafter the term of the member representing such district shall be four years and until his or her successor is appointed and qualified;

(d) Not later than sixty days after July 15, 2010, the Governor shall appoint one at-large member who shall serve until March 31, 2013, and until his or her successor is appointed and qualified. Thereafter the term of such member shall be four years and until his or her successor is appointed and qualified;

(e) Not later than sixty days after July 15, 2010, the Governor shall appoint one at-large member who shall serve until March 31, 2014, and until his or her successor is appointed and qualified. Thereafter the term of such member shall be four years and until his or her successor is appointed and qualified; and

(f) Not later than sixty days after May 26, 2021, the Governor shall appoint two additional at-large members who shall serve until March 31, 2025,

and until their successors are appointed and qualified. One of such members shall have experience in the Nebraska gaming industry, and one shall have experience in the Nebraska horseracing industry. Thereafter the terms of such at-large members shall be four years and until their successors are appointed and qualified.

(3) Not more than four members of the commission shall belong to the same political party. No more than three of the members shall reside, when appointed, in the same congressional district. No more than two of the members shall reside in any one county. Any vacancy shall be filled by appointment by the Governor for the unexpired term. The compensation of the members of the commission shall be one thousand dollars per month, which may be adjusted every two years in an amount not to exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the first year to June 30 of the year of adjustment. The members shall be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The members of the commission shall be bonded or insured as required by section 11-201.

(4) No member shall have any personal financial interest in any licensed racetrack enclosure or authorized gaming operator as defined in the Nebraska Racetrack Gaming Act for the duration of the member's term.

Sec. 2. Section 2-1202, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-1202 (1) The commission shall elect one of its members to be chairperson thereof, and it shall be authorized to employ such other assistants and employees as may be necessary to carry out the purposes of sections 2-1201 to 2-1218 and the Nebraska Racetrack Gaming Act. The commission shall employ an executive director who shall be selected by the commission subject to the approval of the Governor. The executive director shall devote full time to the duties of the office and shall not engage in any other business or profession or hold any other state public office. The executive director shall keep a record of the proceedings of the commission, preserve the books, records, and

documents entrusted to the executive director, and perform such other duties as the commission shall prescribe; and the commission shall require the executive director to give bond in such sum as it may fix, conditioned for the faithful performance of the duties of the executive director. The commission shall be authorized to fix the compensation of the executive director, and also the compensation of its other employees, subject to the approval of the Governor. The commission shall have an office at such place within the state as it may determine and shall meet at least six times per year.

(2) The commission shall appoint or employ deputies, investigators, inspectors, agents, security personnel, and other persons as deemed necessary to administer and effectively enforce the regulation of horseracing and the Nebraska Racetrack Gaming Act. Any appointed or employed personnel shall perform the duties assigned by the commission.

(3) All personnel appointed or employed by the commission shall be bonded or insured as required by section 11-201. As specified by the commission, certain personnel shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the commission.

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

2-1203 The commission shall have power to prescribe and enforce rules and regulations governing horseraces and race meetings licensed as provided in sections 2-1201 to 2-1229 and section 6 of this act and games of chance as provided in the Nebraska Racetrack Gaming Act. Such rules and regulations shall contain criteria to be used by the commission for decisions on approving and revoking track licenses and setting racing dates.

The commission may revoke or suspend licenses issued to racing industry participants and may, in lieu of or in addition to such suspension or revocation, impose a fine in an amount not to exceed twenty-five thousand dollars upon a finding that a rule or regulation has been violated by a licensed racing industry participant. The exact amount of the fine shall be

proportional to the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation.

The commission may delegate to a board of stewards such of the commission's powers and duties as may be necessary to carry out and effectuate the purposes of sections 2-1201 to 2-1229 and section 6 of this act.

Any decision or action of such board of stewards may be appealed to the commission or may be reviewed by the commission on its own initiative. The board of stewards may impose a fine not to exceed five thousand dollars upon a finding that a rule or regulation has been violated.

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

Sec. 4. Section 2-1203.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-1203.01 The commission shall:

(1) Enforce all state laws covering horseracing as required by sections 2-1201 to 2-1229 and section 6 of this act and enforce rules and regulations covering horseracing adopted and promulgated by the commission under the authority of section 2-1203;

(2) License racetrack enclosures, racing industry participants, race officials, mutuel employees, concessionaires, and such other persons as deemed necessary by the commission if the license applicants meet eligibility standards established by the commission;

(3) Prescribe and enforce security provisions, including, but not limited to, the restricted access to areas within racetrack enclosures and backstretch areas, and prohibitions against misconduct or corrupt practices;

(4) Determine or cause to be determined by chemical testing and analysis of body fluids whether or not any prohibited substance has been administered to the winning horse of each race and any other horse selected by the board of stewards;

(5) Verify the certification of horses registered as being Nebraska-bred

under section 2-1213; and

(6) Collect and verify the amount of revenue received by the commission under section 2-1208.

Sec. 5. Section 2-1203.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-1203.02 (1)(a) Any person between sixteen and seventy-five years of age applying for or holding a license to participate in or be employed at a horserace meeting licensed by the commission shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. Each applicant shall furnish to the Nebraska State Patrol a full set of legible fingerprints to enable a criminal background investigation to be conducted. The Nebraska State Patrol shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Nebraska State Patrol shall issue a report to the commission that includes the information collected from the national criminal history record information check concerning the individual. Such requirements shall be 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.

(b) Any person between sixteen and seventy-five years of age involved in the administration or management of a racetrack, including the governing body, shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. Each applicant shall furnish to the Nebraska State Patrol a full set of legible fingerprints to enable a criminal background investigation to be conducted. The Nebraska State Patrol shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Nebraska State Patrol shall issue a report to the commission that includes the information collected from the national criminal history record information check concerning the individual.

(c) The applicant, licensee, or person involved in the administration or

management of a racetrack shall pay the actual cost of any fingerprinting or check of his or her criminal history record information.

(d) The requirements of this subsection shall not apply to employees of concessions who do not work in restricted-access areas, admissions employees whose duties involve only admissions ticket sales and verification or parking receipts sales and verification, and medical or emergency services personnel authorized to provide such services at the racetrack.

(2) If the applicant is an individual who is applying for a license to participate in or be employed at a horserace meeting, the application shall include the applicant's social security number.

Sec. 6. (1) For purposes of sections 2-1201 to 2-1218, licensed racetrack enclosure means all real property licensed and utilized for the conduct of a race meeting, including the racetrack and any grandstand, concession stand, office, barn, barn area, employee housing facility, parking lot, and additional area designated by the commission in accordance with the Constitution of Nebraska and applicable Nebraska law.

(2) The Nebraska State Fair Board, a county fair board, a county agricultural society for the improvement of agriculture organized under the County Agricultural Society Act, or a corporation or association of persons organized and carried on for civic purposes or which conducts a livestock exposition for the promotion of the livestock or horse-breeding industries of the state and which does not permit its members to derive personal profit from its activities by way of dividends or otherwise may apply in a manner prescribed by the commission for a racetrack enclosure license to operate a licensed racetrack enclosure along with an application fee of ten thousand dollars. A racetrack enclosure license shall be valid for a period of three years. Such license may be renewed in a manner prescribed by the commission, and such application for renewal shall be accompanied by a fee of ten thousand dollars.

(3) A racetrack enclosure license issued pursuant to this section for purposes of operating a licensed racetrack enclosure is separate and distinct

from the license required to conduct horseracing meets issued pursuant to section 2-1204.

(4) A licensee holding a license to conduct horseracing meets at a designated place within the state pursuant to section 2-1204 prior to the effective date of this act shall be deemed to hold a racetrack enclosure license for such designated place within the state for purposes of this section and the Nebraska Racetrack Gaming Act until the commission acts upon the licensee's application for a racetrack enclosure license under this section.

Sec. 7. Section 2-1204, Reissue Revised Statutes of Nebraska, is amended to read:

2-1204 (1) The Nebraska State Fair Board, a county fair board, a county agricultural society for the improvement of agriculture organized under the County Agricultural Society Act, or a corporation or association of persons organized and carried on for civic purposes or which conducts a livestock exposition for the promotion of the livestock or horse-breeding industries of the state and which does not permit its members to derive personal profit from its activities by way of dividends or otherwise may apply to the commission for a license to conduct horseracing meets at a designated place within the state. Such application shall be filed with the executive director of the commission at least sixty days before the first day of the horserace meeting which such corporation or association proposes to hold or conduct, shall specify the day or days when and the exact location where it is proposed to conduct such racing, and shall be in such form and contain such information as the commission shall prescribe.

(2) A license to conduct horseracing meets issued pursuant to this section is separate and distinct from the license required for racetrack enclosures pursuant to section 6 of this act.

Sec. 8. Section 2-1205, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-1205 (1) If the commission is satisfied that its rules and regulations and all provisions of sections 2-1201 to 2-1218 have been and will be complied

with, it may issue a license to conduct a race or race meeting for a period of not more than three years. The license shall set forth the name of the licensee, the place where the races or race meetings are to be held, and the time and number of days during which racing may be conducted by such licensee. Any such license issued shall not be transferable or assignable. The commission shall have the power to revoke any license issued at any time for good cause upon reasonable notice and hearing. No license shall be granted to any corporation or association except upon the express condition that it shall not, by any lease, contract, understanding, or arrangement of whatever kind or nature, grant, assign, or turn over to any person, corporation, or association the operation or management of any racing or race meeting licensed under such sections or of the parimutuel system of wagering described in section 2-1207 or in any manner permit any person, corporation, or association other than the licensee to have any share, percentage, or proportion of the money received for admissions to the racing or race meeting or from the operation of the parimutuel system; and any violation of such conditions shall authorize and require the commission immediately to revoke such license. No licensee shall be considered in violation of this section with respect to an agreement with an authorized gaming operator regarding employees and the acceptance of any parimutuel wager or sports wager pursuant to section 9-1110.

(2)(a) Any racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 which is in existence and operational as of April 20, 2022, shall:

(i) Hold a minimum of five live racing meet days and fifty live horseraces annually beginning January 1, 2026, through December 31, 2030; and

(ii) Beginning January 1, 2031, hold a minimum of fifteen live racing meet days and one hundred twenty live horseraces annually.

(b) Any racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 which is not in existence and operational until after April 20, 2022, shall:

(i) Hold a minimum of one live racing meet day annually for the first

three years of operation;

(ii) Hold a minimum of five live racing meet days and fifty live horseraces annually for the fourth year of operation through the seventh year of operation; and

(iii) Beginning with the eighth year of operation, hold a minimum of fifteen live racing meet days and one hundred twenty live horseraces annually.

(c) A racetrack that fails to meet the minimum requirements under this subsection is subject to discipline by the commission, including revocation of the license issued under sections 2-1201 to 2-1218.

(3) A racetrack for which a licensee is issued a license to conduct a race or race meeting under sections 2-1201 to 2-1218 in existence on November 1, 2020, which is located in the counties of Adams, Dakota, Douglas, Hall, Lancaster, and Platte, may move such racetrack location to another county in Nebraska that does not have a racetrack one time only, subject to approval by the commission as provided in subdivision (27) of section 9-1106, subsequent to the initial issuance of the market analysis and socioeconomic-impact studies conducted pursuant to section 9-1106.

Sec. 9. Section 2-1223, Reissue Revised Statutes of Nebraska, is amended to read:

2-1223 Those corporations or associations eligible for licenses to conduct horseracing meets by the parimutuel method as defined in section 2-1204, shall be exempt from the Uniform Disposition of Unclaimed Property Act.

Sec. 10. Section 2-1225, Reissue Revised Statutes of Nebraska, is amended to read:

2-1225 For purposes of sections 2-1207 and 2-1224 to 2-1229, unless the context otherwise requires:

(1) Commission means the State Racing and Gaming Commission;

(2) Interstate simulcast means parimutuel wagering at any licensed racetrack within the state on the results of any horserace conducted outside the state;

(3) Licensed horserace meeting includes, but is not limited to, licensed

racetrack enclosures at which simulcasts or interstate simulcasts are conducted;

(4) Operator means any licensee issued a license under sections 2-1201 to 2-1223 operating a simulcast facility in accordance with sections 2-1224 to 2-1229;

(5) Receiving track means any track which displays a simulcast which originates from another track or which conducts interstate simulcasts;

(6) Sending track means any track from which a simulcast or interstate simulcast originates;

(7) Simulcast means the telecast of live audio and visual signals of any horserace conducted in the state for the purpose of parimutuel wagering;

(8) Simulcast facility means a facility within the state which is authorized to display simulcasts for parimutuel wagering purposes under sections 2-1224 to 2-1227 or to conduct interstate simulcasts under sections 2-1228 and 2-1229; and

(9) Track means the grounds within the licensed racetrack enclosure where horseraces are conducted by licensees authorized to conduct such races in accordance with sections 2-1201 to 2-1223.

Sec. 11. Section 2-1244, Reissue Revised Statutes of Nebraska, is amended to read:

2-1244 For purposes of sections 2-1243 to 2-1246, horseracing industry participant shall mean an individual who currently holds a valid license for purposes of conducting horseracing from the State Racing and Gaming Commission and who owns, trains, cares for, or rides horses stabled at a licensed racetrack enclosure in this state for the purpose of horseracing at the live race meeting at such racetrack.

Sec. 12. Section 2-1245, Reissue Revised Statutes of Nebraska, is amended to read:

2-1245 (1) A horseracing industry participant shall be entitled to reasonable treatment from those licensed to conduct thoroughbred race meets.

(2) Private property belonging to a horseracing industry participant at a

racetrack facility shall not unlawfully be converted, seized, damaged, or destroyed by racetrack employees or agents without compensation.

(3) A horseracing industry participant shall not be deemed to forfeit or waive any right to privacy without reasonable cause guaranteed by law by virtue of being licensed by the state, by entry upon licensed racetrack enclosures, or by engaging in the sport of horseracing in this state.

(4) A horseracing industry participant may not be excluded from the grounds of any licensed racetrack enclosure by track management without a hearing by the stewards at such racetrack unless there are reasonable grounds to believe such participant has committed a felony or is posing a physical danger to himself or herself, to others, or to animals in his or her care or his or her physical presence will bring immediate harm to horseracing. Such hearing shall be held as soon as practicable and shall be given first priority and precedence by the stewards. This subsection shall not apply to the allocation of stalls pursuant to an agreement between the horseracing industry participant and the licensed racetrack.

(5) A horseracing industry participant shall be free from unreasonable searches and seizures of his or her person without probable cause and shall be free from unreasonable searches and seizures of his or her housing, vehicle, papers, and effects.

(6) If a horseracing industry participant has been charged with a violation of a rule of racing which involves a substantial risk of loss or suspension of his or her license or which involves a criminal penalty, he or she shall be entitled to the following protections as a matter of right:

(a) To remain silent;

(b) To the benefit of counsel, including the opportunity to confer with counsel in preparation of a defense;

(c) To a speedy and public hearing;

(d) To present evidence and to testify in person at his or her hearing;

(e) To cross-examine the witnesses who testify against him or her; and

(f) To have prospective witnesses excluded from the hearing room during

the hearing.

Nothing in this section shall prevent a horseracing industry participant from knowingly waiving any rights afforded under this subsection.

(7) A horseracing industry participant shall not be required to waive his or her constitutional rights nor the rights granted pursuant to sections 2-1243 to 2-1246 as a condition of pursuing a livelihood in this state or at any licensed thoroughbred horseracing facility.

Sec. 13. Section 9-1101, Reissue Revised Statutes of Nebraska, is amended to read:

9-1101 Sections 9-1101 to 9-1118 and sections 9-1201 to 9-1209 shall be known and may be cited as the Nebraska Racetrack Gaming Act.

Sec. 14. Section 9-1103, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1103 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) 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;

(8) 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;

(9) 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;

(10) 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;

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

(12) Licensed racetrack enclosure has the same meaning as in section 6 of

this act;

(13) 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;

(14) 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 sports 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 sports 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;

(15) 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;

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

(17) 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.

Sec. 15. Section 9-1106, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1106 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 in order 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

and one million dollars due each year thereafter until the initial five-million-dollar license fee is paid in full;

(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 games 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 games of chance for more than one year, three times the highest daily amount 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 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 as a whole;

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

(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;

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

(30) As appropriate and as recommended by the executive director of the commission, delegate to an adjudication subcommittee of the commission those powers and duties of the commission as necessary to carry out and effectuate

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

Sec. 16. Section 9-1107, Revised Statutes Cumulative Supplement, 2024, is amended to read:

9-1107 (1) The Racetrack Gaming Fund is created. The fund shall consist of all license, application, and other fees collected under the Nebraska Racetrack Gaming Act and all license fees and gross tax receipts collected by the commission under sections 2-1203, 2-1203.01, and 2-1208 relating to horseracing but shall not include taxes collected pursuant to section 2-1208.01. The fund shall be used for administration of the Nebraska Racetrack Gaming Act and the administration of horseracing pursuant to Chapter 2, article 12. Any money in the 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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(2) The State Treasurer shall transfer any money in the Racing and Gaming Commission's Racing Cash Fund on the effective date of this act to the Racetrack Gaming Fund.

Sec. 17. Section 9-1108, Reissue Revised Statutes of Nebraska, is amended

to read:

9-1108 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 Federal Bureau of Investigation through the Nebraska State Patrol. Each applicant shall furnish to the Nebraska State Patrol a full set of legible fingerprints to enable a criminal background investigation to be conducted. The Nebraska State Patrol shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Nebraska State Patrol shall issue a report to the commission that includes the information collected from the national criminal history record information check concerning the individual. Such requirements shall be 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.

Sec. 18. Section 9-1203, Reissue Revised Statutes of Nebraska, is amended to read:

9-1203 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 commission shall collect the tax and shall account for and remit such tax as set forth by law.

Sec. 19. Section 9-1205, Reissue Revised Statutes of Nebraska, is amended to read:

9-1205 Every authorized gaming operator subject to taxation as set forth in section 9-1203 shall pay such tax by the fifteenth of each month to the commission and make report thereof to the commission under such rules and regulations as may be prescribed by the commission.

Sec. 20. Section 9-1206, Reissue Revised Statutes of Nebraska, is amended to read:

9-1206 If the tax provided for in section 9-1203 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 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.

Sec. 21. Section 9-1207, Reissue Revised Statutes of Nebraska, is amended to read:

9-1207 Any authorized gaming operator that willfully fails, neglects, or refuses to make any report required by section 9-1205, or by rules and regulations adopted and promulgated under such section, or that knowingly makes any false statement in any such report, is guilty of a Class IV felony.

Sec. 22. Section 9-1208, Reissue Revised Statutes of Nebraska, is amended to read:

9-1208 If any section or provision of the Nebraska Racetrack Gaming Act 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 the Nebraska Racetrack Gaming Act as a whole or any part thereof, other than the part so determined to be unconstitutional or otherwise void or invalid.

Sec. 23. Section 9-1209, Reissue Revised Statutes of Nebraska, is amended to read:

9-1209 (1) If any person liable to pay any tax or fee under the Nebraska Racetrack Gaming Act 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 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 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 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 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 commission's serial number, and a statement to the effect that the commission has complied with all provisions of the Nebraska Racetrack Gaming Act 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 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 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 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 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 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 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 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 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.

Sec. 24. Section 25-21,252, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,252 (1) Sections 25-21,249 to 25-21,253 shall not apply to the horseracing industry as regulated in sections 2-1201 to 2-1229 and section 6 of this act.

(2) Nothing in section 25-21,251 prevents or limits the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:

(a) Provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or professional failed to reasonably and prudently inspect or maintain the equipment or tack;

(b) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and determine the ability of the participant to safely manage the particular equine based on the participant's representations of his or her ability;

(c) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries or death because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, equine professional, or person and for which warning signs were not conspicuously posted;

(d) Commits an act or omission which a reasonable, prudent person would not have done or omitted under the same or similar circumstances or which constitutes willful or wanton disregard for the safety of the participant and that act or omission was a proximate cause of the injury; or

(e) Intentionally injures the participant.

(3) Nothing in section 25-21,251 prevents or limits the liability of an equine activity sponsor or an equine professional under product liability laws.

Sec. 25. Original sections 2-1203, 2-1203.01, 2-1203.02, 2-1204, 2-1223, 2-1225, 2-1244, 2-1245, 9-1101, 9-1108, 9-1203, 9-1205, 9-1206, 9-1207, 9-1208, 9-1209, and 25-21,252, Reissue Revised Statutes of Nebraska, and sections 2-1201, 2-1202, 2-1205, 9-1103, 9-1106, and 9-1107, Revised Statutes Cumulative Supplement, 2024, are repealed.

Sec. 26. The following sections are outright repealed: Sections 2-1222 and 9-1202, Reissue Revised Statutes of Nebraska.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 357 was passed by the One Hundred Ninth Legislature of Nebraska at its First Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR