

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 342

Introduced by Brandt, 32; Dorn, 30; Hansen, 16; Quick, 35.

Read first time January 16, 2025

Committee: General Affairs

- 1 A BILL FOR AN ACT relating to gaming; to amend sections 28-1101, 28-1105,
- 2 and 28-1113, Revised Statutes Cumulative Supplement, 2024; to adopt
- 3 the Fantasy Sports Consumer Protection Act; to redefine terms; to
- 4 provide a gambling exception for conducting or participating in
- 5 fantasy contests; to change a provision relating to possession of
- 6 gambling records; to harmonize provisions; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 13 of this act shall be known and may be
2 cited as the Fantasy Sports Consumer Protection Act.

3 **Sec. 2.** For purposes of the Fantasy Sports Consumer Protection Act:

4 (1) Adjusted gross fantasy contest receipts means the amount equal
5 to the gross fantasy contest receipts of a fantasy contest operator
6 multiplied by the location percentage;

7 (2) Applicant means a fantasy contest operator that submits an
8 application for licensure under the Fantasy Sports Consumer Protection
9 Act;

10 (3) Athlete means a professional or amateur competitor in a real-
11 world sporting event or an organized video game competition that is
12 regulated by a governing body and that is held between players who play
13 individually or as teams;

14 (4) Department means the Department of Revenue;

15 (5) Disqualifying offense means any felony or any offense involving
16 gambling;

17 (6) Entry fee means cash or a cash equivalent that is paid by a
18 participant in advance of a fantasy contest in order to participate in a
19 fantasy contest offered by a fantasy contest operator;

20 (7)(a) Fantasy contest means an online fantasy or simulated game or
21 contest of skill with an entry fee in which:

22 (i) The values of all prizes offered to a winning participant are
23 established and made known to the participant in advance of the contest;

24 (ii) All winning outcomes reflect the relative knowledge and skill
25 of the participant;

26 (iii) The participant assembles a fictional entry or roster of
27 actual athletes;

28 (iv) A participant competes for prizes awarded by a fantasy contest
29 operator based on terms and conditions published by the fantasy contest
30 operator and made known to the participant in advance of the contest;

31 (v) Winning outcomes are determined solely by clearly established

1 scoring criteria based on one or more statistical results of the
2 performance of an individual athlete, including, but not limited to, a
3 fantasy score; and

4 (vi) No winning outcome is based on the score, point spread, or any
5 performance of any single actual team or combination of teams or solely
6 on any single performance of an individual athlete or player in any
7 single actual event.

8 (b) Fantasy contest includes both contests wherein participants
9 compete against each other and contests wherein only a single participant
10 competes against a target score set by the fantasy contest operator.

11 (c) Fantasy contest does not include:

12 (i) Any fantasy contest in which the participant is not required to
13 pay an entry fee to a fantasy contest operator; or

14 (ii) Any fantasy contest:

15 (A) With rosters whose membership is limited to athletes of a single
16 sport;

17 (B) That encompass at least one-half of a sport's regular season of
18 the athletic activity in which the underlying competition is being
19 conducted;

20 (C) In which participants compete against each other; and

21 (D) In which the fantasy contest operator, if such operator so
22 chooses, retains an administrative fee not to exceed fifty percent of all
23 entry fees paid to enter the single season-long contest;

24 (8) Fantasy contest operator means a person or entity that offers
25 fantasy contests to members of the public. Fantasy contest operator does
26 not include an Internet service provider or a provider of mobile data
27 services merely as a result of that entity's transporting general traffic
28 that may include a fantasy contest;

29 (9) Gross fantasy contest receipts means the amount equal to the
30 total of all entry fees that a fantasy contest operator collects from all
31 participants less the total of all amounts paid out as prizes to all

1 participants;

2 (10) Key employee means any executive, employee, agent, or other
3 individual who has the power to exercise significant influence over
4 decisions concerning any part of the operation, including:

5 (a) An officer, director, trustee, partner, or an equivalent
6 fiduciary;

7 (b) An individual who holds a direct or indirect ownership interest
8 of ten percent or more;

9 (c) An individual who performs the function of a principal executive
10 officer, principal operating officer, principal accounting officer, or an
11 equivalent officer;

12 (d) Any other individual the department determines to have the power
13 to exercise significant influence over decisions concerning any part of
14 the operation;

15 (11) Large fantasy contest operator means a fantasy contest operator
16 that, at the time of initial or renewed licensure, has adjusted gross
17 fantasy contest receipts of one million dollars or more for the preceding
18 twelve calendar months;

19 (12) Location percentage means the percentage rounded to the nearest
20 one-tenth of one percent of the total entry fees collected from players
21 located in the state, divided by the total entry fees collected from all
22 players in the fantasy contest;

23 (13) Participant means an individual who participates in a fantasy
24 contest offered by a fantasy contest operator. Participant does not
25 include a fantasy contest operator by virtue of doing one or more of the
26 following: (a) Setting house rules for a contest; (b) assigning a salary
27 or target score to any eligible athlete or player; (c) accepting an entry
28 fee from a participant; or (d) awarding or disbursing prizes in
29 conformance with the Fantasy Contests Consumer Protection Act;

30 (14) Prohibited participant means an individual who has self-
31 excluded under section 12 of this act or an athlete, coach, referee,

1 trainer, or team staff when the fantasy contest entry includes an athlete
2 selection from a sporting event overseen by the same sports governing
3 body which oversees the athlete, coach, referee, trainer, or team staff
4 in question;

5 (15) Sporting event means a real-world athletic event or an
6 organized video game competition or other event approved by the
7 department that is regulated by a governing body and that is held between
8 athletes who play individually or as teams; and

9 (16) Sports governing body means the organization that prescribes
10 final rules and enforces codes of conduct with respect to a sporting
11 event and athletes therein.

12 **Sec. 3.** (1) The department shall regulate the conduct of fantasy
13 contest operators pursuant to the Fantasy Sports Consumer Protection Act.

14 (2) The department shall adopt and promulgate rules and regulations
15 to carry out the Fantasy Sports Consumer Protection Act. Such initial
16 rules and regulations shall be adopted and promulgated no later than
17 January 1, 2026. Any rules and regulations proposed by the department may
18 be adopted as emergency rules if necessary pursuant to section 84-901.04.

19 (3) The department shall have the following powers and duties
20 pursuant to the Fantasy Sports Consumer Protection Act:

21 (a) Levy and collect all fees, surcharges, and civil penalties and
22 the tax imposed pursuant to section 9 of this act;

23 (b) Require fantasy contest operators to implement procedures to
24 prevent fraud, abuse, money laundering, and collusion;

25 (c) Verify that fantasy contest operators establish technical and
26 operational measures to prevent underage participation in a fantasy
27 contest;

28 (d) Verify that fantasy contest operators deploy identity
29 verification procedures, which may require the use of a reputable
30 independent third party that is in the business of verifying an
31 individual's personally identifiable information and can detect potential

1 prohibited participants;

2 (e) Verify that fantasy contest operators employ mechanisms on the
3 operator's platform that are designed to detect and prevent unauthorized
4 accounts and to detect and prevent fraud, money laundering, and
5 collusion;

6 (f) Require the use of geolocation technology by fantasy contest
7 operators to verify that a participant is not entering fantasy contests
8 from a restricted jurisdiction;

9 (g) Adopt and promulgate rules and regulations (i) establishing
10 compulsive and problem gaming standards for fantasy contest operators
11 that are consistent with the act, and (ii) governing investigations of
12 prohibited conduct and referrals to law enforcement entities; and

13 (h) Exercise any other powers necessary to enforce the provisions of
14 the Fantasy Sports Consumer Protection Act.

15 (4) The Fantasy Sports Consumer Protection Act shall be construed
16 liberally to promote the general welfare of the public and integrity of
17 the fantasy sports industry. However, the department shall not adopt
18 rules or regulations limiting or regulating the rules or administration
19 of an individual fantasy contest, the statistical makeup of a fantasy
20 contest, or the digital platform of a fantasy contest operator. Further,
21 the department shall not in any way limit or restrict the types of
22 fantasy contests allowed pursuant to the act by labelling any such
23 contests as sports wagering as defined in section 9-1103.

24 (5) No licensed fantasy contest operator shall be forced to
25 surrender or terminate its license prior to the date of expiration of the
26 license solely by virtue of a change in the rules adopted under the act.

27 (6) The department and fantasy contest operator licensees may
28 cooperate with investigations conducted by law enforcement agencies,
29 including, but not limited to, providing and facilitating the provision
30 of account-level entry and participation information.

31 (7) A fantasy contest operator licensee shall make all reasonable

1 efforts to promptly notify the department of any information relating to:

2 (a) A confirmed breach of the relevant sports governing body's
3 internal rules and codes of conduct, if provided to the fantasy contest
4 operator, pertaining to participation in real-money fantasy contests;

5 (b) Any conduct that corrupts any outcome related to a sporting
6 event for purposes of financial gain, including match fixing; and

7 (c) Confirmed illegal activities, including use of funds derived
8 from illegal activity, entries to conceal or launder funds derived from
9 illegal activity, multi-accounting, and using false identification.

10 **Sec. 4.** (1) Except as otherwise provided in this section, a person
11 shall not offer fantasy contests in this state unless the person is
12 licensed by the department as a fantasy contest operator.

13 (2) An applicant for a license issued under the Fantasy Sports
14 Consumer Protection Act shall submit an application to the department in
15 a manner prescribed by the department, which shall include the
16 information required pursuant to subsection (3) of this section. As a
17 part of such application, an applicant shall submit fingerprints for a
18 check of such applicant's national criminal history record information
19 maintained by the Identification Division of the Federal Bureau of
20 Investigation through the Nebraska State Patrol to determine if the
21 department has reason to deny the license application by a law
22 enforcement agency. The fingerprints shall be furnished by (a) the
23 applicant's officers, directors, and each individual that holds a ten
24 percent or more ownership interest in the applicant or in shares of the
25 applicant if a corporation, (b) the managers and members if a limited
26 liability company, and (c) the partners if a partnership. The
27 fingerprints shall be accompanied by a signed authorization for the
28 release of information by the law enforcement agency. The department may
29 require additional background checks on licensees when they apply for
30 license renewal, and an applicant convicted of a disqualifying offense
31 shall not be licensed. This subsection does not require an applicant or

1 individual who has submitted to a national criminal history record
2 information check in this state or any other state within the twelve
3 months before submitting the application to resubmit to another criminal
4 history record information check if the applicant or individual submits
5 the results of the previous criminal history record information check and
6 affirms that there has been no material change in the criminal history
7 since the time of the criminal history record check.

8 (3) An application to the department for a license as a fantasy
9 contest operator shall include the following:

10 (a) The name of the applicant;

11 (b) The location of the applicant's principal place of business;

12 (c) The applicant's contact information;

13 (d) The applicant's social security number or, if applicable, the
14 applicant's federal tax identification number;

15 (e) The name and address of each individual that holds a ten percent
16 or more ownership interest in the applicant or in shares of the
17 applicant;

18 (f) The applicant's criminal record, if any, or, if the applicant is
19 a business entity, on request, any criminal record of an individual who
20 is a director, officer, or key employee of the applicant or any
21 individual who has a ten percent or more ownership interest in the
22 applicant;

23 (g) Any ownership interest that a director, officer, key employee,
24 or individual owner of ten percent or more of the applicant holds in a
25 business that is or was a fantasy contest operator or similar entity in
26 any jurisdiction;

27 (h) An identification of any business in which an applicant or a
28 director, officer, key employee, or individual owner of ten percent or
29 more of the applicant has an equity interest of five percent or more. If
30 a business has been identified under this subdivision, documentation
31 shall be provided showing the state in which the business is incorporated

1 or registered, if applicable;

2 (i) Whether an applicant, director, officer, key employee, or
3 individual owner of ten percent or more of the applicant has ever applied
4 for or been granted any license, registration, or certificate issued by a
5 licensing authority in this state or any other jurisdiction for a gaming
6 activity;

7 (j) Whether an applicant or a director, officer, key employee, or
8 individual owner of ten percent or more of the applicant has filed or
9 been served with a complaint or other notice filed by a public body
10 regarding the delinquency in payment of, or dispute over filings
11 concerning, the payment of any tax required under federal, state, or
12 local law, including the amount of tax, the type of tax, the taxing
13 agency, and the time periods involved;

14 (k) Information sufficient to show, as determined by the department,
15 that the applicant can meet the requirements of procedures submitted by
16 the applicant under the Fantasy Sports Consumer Protection Act and under
17 any rules adopted and promulgated under the act;

18 (l) A nonrefundable application fee of five thousand dollars; and

19 (m) Any other information the department may require.

20 (4) Upon receipt of a completed application and the required fee,
21 the department shall conduct the necessary background investigation to
22 determine if the applicant meets the qualifications for licensure. On
23 completion of the necessary background investigation, the department
24 shall either issue a license or deny the application. If the application
25 for licensure is denied, a statement setting forth the grounds for denial
26 shall be forwarded to the applicant together with all other documents
27 relied on by the department, to the extent allowed by law.

28 (5) A fantasy contest operator offering a fantasy contest to
29 residents of Nebraska prior to the effective date of this act may
30 continue to offer such fantasy contest until ninety days after an
31 application for licensure is made available by the department or, if such

1 applicant submits an initial application within the first ninety days of
2 an application being made available, until such operator's initial
3 application for licensure under the Fantasy Sports Consumer Protection
4 Act is approved or rejected by the commission, whichever is later.

5 (6) A federally recognized Indian tribe that offers fantasy contests
6 may, but is not required, to contract with a fantasy contest operator for
7 fantasy contests offered for play. A federally recognized Indian tribe
8 that offers fantasy contests for play in this state and does not contract
9 with a fantasy contest operator shall be considered a fantasy contest
10 operator for purposes of complying with the licensing, reporting, and
11 regulatory requirements of the Fantasy Sports Consumer Protection Act.

12 **Sec. 5.** (1) The operation of a fantasy contest is only lawful when
13 conducted in accordance with the provisions of the Fantasy Sports
14 Consumer Protection Act.

15 (2) A person shall be at least eighteen years of age to participate
16 in a fantasy contest.

17 (3) A fantasy contest operator shall only accept an entry from a
18 person physically located in the state. A fantasy contest operator shall
19 use a geolocation system to ensure that a participant is physically
20 present in the state when submitting a fantasy contest entry unless
21 otherwise authorized by the department.

22 **Sec. 6.** (1)(a) The initial license fee for a fantasy contest
23 operator that operated in the state prior to the effective date of this
24 act shall be ten percent of its adjusted gross fantasy contest receipts
25 from the preceding calendar year or five thousand dollars, whichever is
26 less.

27 (b) The initial license fee for a fantasy contest operator that did
28 not operate in the state for at least the twelve months prior to the
29 effective date of this act shall be five thousand dollars, so long as
30 such a fantasy sports contest operator agrees to and does remit a
31 supplemental license fee of ten percent of its adjusted gross fantasy

1 sports contest receipts for the twelve-month period beginning on the date
2 of licensure less the initial license fee. In the event that the
3 supplemental license fee would result in a negative number, no refund
4 shall be issued, and the supplemental license fee shall be deemed to be
5 zero.

6 (2) A license as a fantasy contest operator issued by the department
7 shall remain in effect for four years. The department shall establish a
8 process for renewal with a renewal fee equal to one percent of the
9 adjusted gross fantasy contest receipts of such operator for the
10 preceding four years.

11 (3) A fantasy contest operator that allows its license to lapse
12 without requesting an extension of time to file shall resubmit an initial
13 application. An extension may be granted by the department upon receipt
14 of a written request.

15 (4) A fantasy contest operator applying for a license or renewal of
16 a license may operate during the application period unless the department
17 has reasonable cause to believe that the fantasy contest operator is or
18 may be in violation of the provisions of the Fantasy Sports Consumer
19 Protection Act or any rules or regulations adopted and promulgated under
20 the act. In such case, the department may require the fantasy contest
21 operator to suspend the operation of any fantasy contest until the
22 license is issued or renewed.

23 **Sec. 7.** (1) As part of its submission for licensure or renewal, an
24 applicant shall:

25 (a) Contract with a certified public accountant to conduct an
26 independent audit, consistent with generally accepted accounting
27 principles;

28 (b) Annually contract with a testing laboratory, certified public
29 accountant, or other professional service provider, recognized by the
30 department, to verify compliance with the provisions of the Fantasy
31 Sports Consumer Protection Act; and

1 (c) Submit to the department a copy of the audit report and a copy
2 of the compliance report of the testing laboratory, certified public
3 accountant, or professional service provider.

4 (2) An initial applicant is not required to submit an audit report
5 or compliance report until two years following the issuance of a license.

6 **Sec. 8.** (1) The department shall investigate all reasonable
7 allegations of prohibited conduct and refer any allegations it deems
8 credible to the appropriate law enforcement entity.

9 (2) The identity of any reporting person shall remain confidential
10 unless such person authorizes disclosure of the person's identity or
11 until the allegation of prohibited conduct is referred to law
12 enforcement.

13 (3) If the department receives a complaint of prohibited conduct by
14 an athlete, the department shall notify the appropriate sports governing
15 body to review the complaint as provided by rule of the department.

16 **Sec. 9.** (1) Beginning on July 1, 2026, for the privilege of holding
17 a license to operate fantasy contests under the Fantasy Sports Consumer
18 Protection Act, the department shall impose and collect a tax at a rate
19 of ten percent of the fantasy contest operator's adjusted gross fantasy
20 contest receipts. The accrual method of accounting shall be used for
21 purposes of calculating the amount of the tax owed by the licensee. The
22 fantasy contest operator shall submit to the department, on or before the
23 last day of each calendar month, a return indicating the amount of tax
24 due under this section for the previous calendar month as well as any
25 other information the department shall require and shall remit to the
26 department payment of the tax due under this section with such return.

27 (2) The tax imposed pursuant to this section shall be remitted to
28 the State Treasurer for credit as follows: Eighty-five percent to the
29 General Fund and fifteen percent to the Compulsive Gamblers Assistance
30 Fund.

31 **Sec. 10.** Any person who knowingly violates any provision of the

1 Fantasy Sports Consumer Protection Act shall be liable for a civil
2 penalty of not more than one thousand dollars for each violation, not to
3 exceed ten thousand dollars for violations arising out of the same
4 transaction or occurrence, which shall accrue to the state, and which may
5 be recovered in a civil action brought by the department. All money
6 collected by the department pursuant to this section shall be remitted to
7 the State Treasurer for distribution in accordance with Article VII,
8 section 5, of the Constitution of Nebraska.

9 **Sec. 11.** The Fantasy Sports Consumer Protection Fund is created.
10 The fund shall be administered by the department and used for the
11 administration of the Fantasy Sports Consumer Protection Act. Any license
12 and application fees collected by the department pursuant to the Fantasy
13 Sports Consumer Protection Act shall be credited to the Fantasy Sports
14 Consumer Protection Fund. Any money in the fund available for investment
15 shall be invested by the state investment officer pursuant to the
16 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
17 Act.

18 **Sec. 12.** (1) Each fantasy contest operator shall include a
19 statement regarding obtaining assistance with real-money gaming problems
20 on the operator's portal, website, or computer or mobile application and
21 on all marketing materials and advertisements of the operator.

22 (2) An individual may voluntarily prohibit himself or herself from
23 establishing a fantasy contest account with a fantasy contest operator
24 under the Fantasy Sports Consumer Protection Act. The department shall
25 incorporate the voluntary self-exclusion program for fantasy contests
26 into any existing self-exclusion program that it operates on the
27 effective date of this act.

28 (3) If a prohibited participant participates in a fantasy contest,
29 the fantasy contest operator shall report to the department, at a
30 minimum, the name of the self-excluded individual, the date of
31 participation, the amount or value of any money, prizes, or awards

1 forfeited, if any, and any other action taken.

2 (4) A fantasy contest operator shall not pay any prize or award to a
3 person who is on the department's prohibited participant list. Any prize
4 or award won by an individual on the prohibited participant list is
5 forfeited and shall be donated by the fantasy contest operator to the
6 problem gaming charities or programs as identified and directed by the
7 department on a quarterly basis by the twenty-fifth day of the following
8 month.

9 (5) A fantasy contest operator shall develop and maintain a program
10 to mitigate compulsive play and curtail compulsive play, which may be in
11 conjunction with the department.

12 **Sec. 13.** (1) A large fantasy contest operator shall electronically
13 submit a report, in a searchable format, on all procurement goals and
14 actual spending for businesses owned by women, minorities, veterans,
15 indigenous persons, and persons with disabilities and for small business
16 enterprises in the previous calendar year. Such goals and actual spending
17 shall be expressed as a percentage of the total work performed by the
18 large fantasy contest operator. The initial report shall be due one year
19 after initial licensure by the large fantasy contest operator.

20 (2)(a) A similar report shall be submitted biannually following the
21 year in which the initial report was submitted. Such biannual report
22 shall contain the following information:

23 (i) An explanation of the plan relating to procurement goals and
24 actual spending relating to the populations described in subsection (1)
25 of this section for the next two-year period to increase participation;

26 (ii) An explanation of the plan to increase such goals;

27 (iii) The areas of procurement each large fantasy contest operator
28 plans to seek more participation from in the next two-year period;

29 (iv) An outline of the plan to alert and encourage potential vendors
30 to seek business from the large fantasy contest operator;

31 (v) An explanation of the challenges faced in finding quality

1 vendors;

2 (vi) A list of the certifications the large fantasy contest operator
3 recognizes;

4 (vii) The point of contact for a large fantasy contest operator for
5 any potential vendor who wishes to do business with the large fantasy
6 contest operator;

7 (viii) An explanation for potential vendors of the process of
8 enrolling with a large fantasy contest operator; and

9 (ix) Any success stories of the large fantasy contest operator
10 working with a business owned by any of the populations described in
11 subsection (1) of this section.

12 (b) Each biannual report shall include as much state-specific data
13 as possible. If the large fantasy contest operator does not submit state-
14 specific data, then such report shall include national data and an
15 explanation as to why state-specific data could not be submitted.

16 (c) Each biannual report shall include the rules, regulations, and
17 definitions used for the procurement goals in the large fantasy contest
18 operator's report.

19 **Sec. 14.** Section 28-1101, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 28-1101 As used in this article, unless the context otherwise
22 requires:

23 (1) A person advances gambling activity if, acting other than as a
24 player, he or she engages in conduct that materially aids any form of
25 gambling activity. Conduct of this nature includes, but shall not be
26 limited to, conduct directed toward (a) the creation or establishment of
27 the particular game, contest, scheme, device, or activity involved, (b)
28 the acquisition or maintenance of premises, paraphernalia, equipment, or
29 apparatus therefor, or (c) engaging in the procurement, sale, or offering
30 for sale within this state of any chance, share, or interest in a lottery
31 of another state or government whether or not such chance, share, or

1 interest is an actual lottery ticket, receipt, contingent promise to pay,
2 order to purchase, or other record of such interest except as provided in
3 the Fantasy Sports Consumer Protection Act, the Nebraska County and City
4 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
5 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
6 Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;

7 (2) Bookmaking means ~~shall mean~~ advancing gambling activity by
8 unlawfully accepting bets from members of the public as a business upon
9 the outcome of future contingent events;

10 (3) A person profits from gambling activity if, other than as a
11 player, he or she accepts or receives money or other property pursuant to
12 an agreement or understanding with any person whereby he or she
13 participates or is to participate in the proceeds of gambling activity;

14 (4) A person engages in gambling if he or she bets something of
15 value upon the outcome of a future event, which outcome is determined by
16 an element of chance, or upon the outcome of a game, contest, or
17 election, or conducts or participates in any fantasy contest, bingo,
18 lottery by the sale of pickle cards, lottery, raffle, gift enterprise, or
19 other scheme not authorized or conducted in accordance with the Fantasy
20 Sports Consumer Protection Act, the Nebraska Bingo Act, the Nebraska
21 County and City Lottery Act, the Nebraska Lottery and Raffle Act, the
22 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle
23 Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or section
24 9-701, but a person does not engage in gambling by:

25 (a) Entering into a lawful business transaction;

26 (b) Playing an amusement device or a coin-operated mechanical game
27 which confers as a prize an immediate, unrecorded right of replay not
28 exchangeable for something of value;

29 (c) Conducting or participating in a prize contest; or

30 (d) Conducting or participating in any fantasy contest, bingo,
31 lottery by the sale of pickle cards, lottery, raffle, game of chance, or

1 gift enterprise conducted in accordance with the Fantasy Sports Consumer
2 Protection Act, the Nebraska Bingo Act, the Nebraska County and City
3 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
4 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
5 Lottery Act, the Nebraska Racetrack Gaming Act, or section 9-701;

6 (5) Gambling device means ~~shall mean~~ any device, machine,
7 paraphernalia, writing, paper, instrument, article, or equipment that is
8 used or usable for engaging in gambling, whether that activity consists
9 of gambling between persons or gambling by a person involving the playing
10 of a machine. Gambling device shall also include any mechanical gaming
11 device, computer gaming device, electronic gaming device, or video gaming
12 device which has the capability of awarding something of value, free
13 games redeemable for something of value, instant-win tickets which also
14 provide the possibility of participating in a subsequent drawing or
15 event, or tickets or stubs redeemable for something of value, except as
16 authorized in the furtherance of parimutuel wagering. Supplies,
17 equipment, cards, tickets, stubs, and other items used in any fantasy
18 contest, bingo, lottery by the sale of pickle cards, other lottery,
19 raffle, game of chance, or gift enterprise conducted in accordance with
20 the Fantasy Sports Consumer Protection Act, the Nebraska Bingo Act, the
21 Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle
22 Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
23 Raffle Act, the State Lottery Act, the Nebraska Racetrack Gaming Act, or
24 section 9-701 are not gambling devices within this definition;

25 (6) Something of value means ~~shall mean~~ any money or property, any
26 token, object, or article exchangeable for money or property, or any form
27 of credit or promise directly or indirectly contemplating transfer of
28 money or property or of any interest therein, or involving extension of a
29 service or entertainment; and

30 (7) Prize contest means ~~shall mean~~ any competition in which one or
31 more competitors are awarded something of value as a consequence of

1 winning or achieving a certain result in the competition and (a) the
2 value of such awards made to competitors participating in the contest
3 does not depend upon the number of participants in the contest or upon
4 the amount of consideration, if any, paid for the opportunity to
5 participate in the contest or upon chance and (b) the value or identity
6 of such awards to be made to competitors is published before the
7 competition begins.

8 **Sec. 15.** Section 28-1105, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

10 28-1105 (1) A person commits the offense of possession of gambling
11 records if, other than as a player, he or she knowingly possesses any
12 writing, paper, instrument, or article which is:

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

17 (b) Of a kind commonly used in the operation, promotion, or playing
18 of a lottery or mutuel scheme or enterprise or other scheme not conducted
19 pursuant to the Fantasy Sports Consumer Protection Act, the Nebraska
20 Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery
21 and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small
22 Lottery and Raffle Act, the State Lottery Act, the Nebraska Racetrack
23 Gaming Act, or section 9-701 and such writing, paper, instrument, or
24 article has been used for the purpose of recording, memorializing, or
25 registering any bet, wager, or other gambling information not permitted
26 by such acts or section.

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

29 **Sec. 16.** Section 28-1113, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 28-1113 Nothing in this article shall be construed to:

1 (1) Apply to or prohibit wagering on the results of horseraces by
2 the parimutuel or certificate method when conducted by licensees within
3 the racetrack enclosure at licensed horserace meetings;

4 (2) Prohibit or punish the conducting or participating in any
5 fantasy contest, bingo, lottery by the sale of pickle cards, lottery,
6 raffle, or gift enterprise when conducted in accordance with the Fantasy
7 Sports Consumer Protection Act, the Nebraska Bingo Act, the Nebraska
8 County and City Lottery Act, the Nebraska Lottery and Raffle Act, the
9 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle
10 Act, the State Lottery Act, or section 9-701; or

11 (3) Apply to or prohibit the operation of games of chance, whether
12 using a gambling device or otherwise, by authorized gaming operators
13 within licensed racetrack enclosures or the participation or playing of
14 such games of chance, whether participated in or played using a gambling
15 device or otherwise, by individuals twenty-one years of age or older
16 within licensed racetrack enclosures as provided in the Nebraska
17 Racetrack Gaming Act.

18 **Sec. 17.** Original sections 28-1101, 28-1105, and 28-1113, Revised
19 Statutes Cumulative Supplement, 2024, are repealed.