

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 438

Introduced by Spivey, 13.

Read first time January 21, 2025

Committee: General Affairs

1 A BILL FOR AN ACT relating to gambling; to amend section 9-1204, Reissue
2 Revised Statutes of Nebraska, and sections 9-1103 and 9-1110,
3 Revised Statutes Cumulative Supplement, 2024; to define terms; to
4 authorize an authorized gaming operator to conduct sports wagering
5 by means of an online sports wagering platform under the Nebraska
6 Racetrack Gaming Act as prescribed; to change provisions for the
7 distribution of taxes collected for sports wagering; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 9-1103, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (12) Online sports wagering platform means an integrated system of
23 hardware, software, or applications through which an authorized gaming
24 operator or its platform provider operates, conducts, or offers sports
25 wagering through the Internet to persons located within the State of
26 Nebraska;

27 (13) Platform provider means a sports wagering vendor that contracts
28 with an authorized gaming operator to provide an online sports wagering
29 platform;

30 (14) ~~(12)~~ Prohibited participant means any individual whose
31 participation may undermine the integrity of the wagering or the sporting

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

15 (15) ~~(13)~~ Racing license means a license issued for a licensed
16 racetrack enclosure by the commission; and

17 (16) ~~(14)~~ Sports wagering means the acceptance of wagers on an
18 authorized sporting event by any system of wagering as authorized by the
19 commission. Sports wagering does not include (a) placing a wager on the
20 performance or nonperformance of any individual athlete participating in
21 a single game or match of a collegiate sporting event in which a
22 collegiate team from this state is participating, (b) placing an in-game
23 wager on any game or match of a collegiate sporting event in which a
24 collegiate team from this state is participating, (c) placing a wager on
25 the performance or nonperformance of any individual athlete under
26 eighteen years of age participating in a professional or international
27 sporting event, or (d) placing a wager on the performance of athletes in
28 an individual sporting event excluded by the commission.

29 **Sec. 2.** Section 9-1110, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 9-1110 (1)(a) ~~(1)~~ The commission may permit an authorized gaming

1 operator to conduct sports wagering. All sports wagering shall be
2 conducted by an authorized gaming operator located within a licensed
3 racetrack enclosure or in partnership with such authorized gaming
4 operator pursuant to subdivision (1)(b) of this section. Any sports wager
5 shall be placed (i) in person or at a wagering kiosk in the designated
6 sports wagering area at the licensed racetrack enclosure or (ii) by means
7 of an online sports wagering platform that is offered by or in
8 partnership with an authorized gaming operator by an individual that is
9 located in the State of Nebraska. A parimutuel wager in accordance with
10 sections 2-1201 to 2-1218 may be placed in the designated sports wagering
11 area at the licensed racetrack enclosure. An individual employed and
12 authorized to accept a sports wager may also accept a parimutuel wager.

13 (b)(i) An authorized gaming operator may conduct sports wagering by
14 means of an online sports wagering platform or may contract with up to
15 one platform provider for purposes of providing sports wagering. A vendor
16 that does not have a contract with an authorized gaming operator to
17 conduct sports wagering by means of an online sports wagering platform
18 shall not be permitted to conduct sports wagering in the State of
19 Nebraska. Any sports wagering conducted by means of an online sports
20 wagering platform shall conform to all requirements relating to sports
21 wagering pursuant to the Nebraska Racetrack Gaming Act and any rules or
22 regulations adopted and promulgated pursuant to the act.

23 (ii) An authorized gaming operator or a vendor that has contracted
24 with an authorized gaming operator shall submit controls to the
25 commission for approval in a manner prescribed by the commission relating
26 to any online sports wagering platform that the authorized gaming
27 operator or the vendor intends to use to conduct sports wagering by means
28 of an online sports wagering platform. No authorized gaming operator or
29 vendor shall conduct sports wagering by means of an online sports
30 wagering platform until the controls for such online sports wagering
31 platform are approved by the commission.

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

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

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

14 (b) Other specific controls as designated by the commission;

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

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

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

24 (5) Beginning on the implementation date designated by the Tax
25 Commissioner pursuant to subsection (1) of section 9-1312, prior to the
26 winnings payment of any sports wagering winnings as defined in section
27 9-1303, an authorized gaming operator shall check the collection system
28 to determine if the winner has a debt or an outstanding state tax
29 liability as required by the Gambling Winnings Setoff for Outstanding
30 Debt Act. If such authorized gaming operator determines that the winner
31 is subject to the collection system, the operator shall deduct the amount

1 of debt and outstanding state tax liability identified in the collection
2 system from the winnings payment and shall remit the net winnings payment
3 of sports wagering winnings, if any, to the winner and the amount
4 deducted to the Department of Revenue to be credited against such debt or
5 outstanding state tax liability as provided in section 9-1306.

6 **Sec. 3.** Section 9-1204, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 9-1204 (1) Of the tax imposed by section 9-1203 on gross gaming
9 revenue not generated by sports wagering, seventy-five percent shall be
10 remitted to the State Treasurer for credit as follows: Two and one-half
11 percent to the Compulsive Gamblers Assistance Fund, two and one-half
12 percent to the General Fund, and seventy percent to the Property Tax
13 Credit Cash Fund. The remaining twenty-five percent of the tax shall be
14 remitted to the county treasurer of the county in which the licensed
15 racetrack enclosure is located to be distributed as follows: (1) If the
16 licensed racetrack enclosure is located completely within an
17 unincorporated area of a county, the remaining twenty-five percent shall
18 be distributed to the county in which such licensed racetrack enclosure
19 is located; or (2) if the licensed racetrack enclosure is located at
20 least partially within the limits of a city or village in such county,
21 one-half of the remaining twenty-five percent shall be distributed to
22 such county and one-half of the remaining twenty-five percent to the city
23 or village in which such licensed racetrack enclosure is at least
24 partially located.

25 (2) The tax imposed by section 9-1203 on gross gaming revenue
26 generated by sports wagering shall be remitted to the State Treasurer for
27 credit as follows: Two and one-half percent to the Compulsive Gamblers
28 Assistance Fund, five percent to the Racing and Gaming Commission's
29 Racetrack Gaming Fund, twenty-seven and one-half percent to the Property
30 Tax Credit Cash Fund, twenty percent to the General Fund, and forty-five
31 percent to the Education Future Fund.

1 **Sec. 4.** Original section 9-1204, Reissue Revised Statutes of
2 Nebraska, and sections 9-1103 and 9-1110, Revised Statutes Cumulative
3 Supplement, 2024, are repealed.