

LEGISLATIVE BILL 1055

Approved by the Governor April 14, 1990

Introduced by Hall, 7

AN ACT relating to gaming; to amend section 9-239, Reissue Revised Statutes of Nebraska, 1943, and sections 2-1207, 2-1208.01, 9-1,101, 9-344, and 9-614, Revised Statutes Supplement, 1989; to change provisions relating to deductions from, taxes on, and permitting a minor to make parimutuel wagers on horseracing; to change provisions relating to taxes on bingo, pickle cards, and other charitable gaming; to change an incorporation requirement for certain lottery operators; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 2-1207, Revised Statutes Supplement, 1989, be amended to read as follows:

2-1207. (1) Within the enclosure of any racetrack where a race or race meeting licensed and conducted under sections 2-1201 to 2-1218 is held or at a racetrack licensed to simulcast races or conduct interstate simulcasting, the parimutuel method or system of wagering on the results of the respective races may be used and conducted by the licensee. Under such system the licensee may receive wagers of money from any person present at such race or racetrack receiving the simulcast race or conducting interstate simulcasting on any horse in a race selected by such person to run first in such race, and the person so wagering shall acquire an interest in the total money so wagered on all horses in such race as first winners in proportion to the amount of money wagered by him or her. Such licensee shall issue to each person so wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse selected by such person as first winner. As each race is run, at the option of the licensee, the licensee may deduct from the total sum wagered on all horses as first winners not less than fifteen percent or more than eighteen percent from such total sum, plus the odd cents of the

redistribution over the next lower multiple of ten. At the option of the licensee, the licensee may deduct up to and including twenty-three percent from the total sum wagered by exotic wagers as defined in section 2-1208.03. The licensee shall notify the State Racing Commission in writing of the percentages the licensee intends to deduct during the live race meet conducted by the licensee and shall notify the commission at least one week in advance of any changes to such percentages the licensee intends to make. 7 respectively; (a) at race meets which conduct live racing more than four days per week excluding holidays; fifteen percent of the total plus the odd cents of the redistribution over the next lower multiple of ten or (b) at race meets which conduct live racing not more than four days per week excluding holidays; not less than fifteen nor more than eighteen percent of the total plus the odd cents of the redistribution over the next lower multiple of ten. All licensees are hereby authorized to deduct up to and including twenty percent from the total sum wagered by exotic wagers as defined in section 2-1208.03. The licensee shall also deduct from the total sum wagered by exotic wagers, if any, the tax plus the odd cents of the redistribution over the next multiple of ten as provided in subsection (1) of section 2-1208.04. The balance remaining on hand shall be paid out to the holders of certificates on the winning horse in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses in such race to run first. The licensee may likewise receive such wagers on horses selected to run second, third, or both, or in such combinations as the commission may authorize, the method, procedure, and authority and right of the licensee, as well as the deduction allowed to the licensee, to be as specified with respect to wagers upon horses selected to run first.

(2) At all race meets held pursuant to this section, the licensee shall deduct from the total sum wagered one-third of the amount over fifteen percent deducted pursuant to subsection (1) of this section on wagers on horses selected to run first, second, or third and one percent of all exotic wagers 7 including wagers on simulcast and interstate simulcast races but excluding wagers on horses selected to run first, second, or third; one percent of the total; to be used to promote agriculture and horse breeding in Nebraska and for the support and preservation of horseracing pursuant to section 2-1207.01, except that no amount shall be deducted from wagers on horses selected to run

first, second, or third at tracks handling less than ten million dollars during their live race meets for promotion of agriculture and horse breeding.

(3) No minor shall be permitted to make any parimutuel wager, and there shall be no wagering except under the parimutuel method outlined in this section. Any person, association, or corporation who knowingly permits aids or abets a minor to make in making a parimutuel wager shall be guilty of a Class IV misdemeanor.

Sec. 2. That section 2-1208.01, Revised Statutes Supplement, 1989, be amended to read as follows:

2-1208.01. There is hereby imposed a tax on the gross sum wagered by the parimutuel method at each race enclosure during a calendar year as follows:

~~(1) Commencing on July 1, 1987, and ending on December 31, 1990:~~

(1) ~~(a)~~ For meets conducted on property owned by the state on which the Nebraska State Fair is also conducted, no tax shall be imposed, but the licensee shall apply two percent of any amount in excess of ten million dollars for the purpose of maintenance of buildings, streets, utilities, and other existing improvements on the Nebraska State Fairgrounds; and

~~(2) (b) For all other meets:~~

~~(a) (i) The first ten million dollars shall not be taxed;~~

~~(b) (ii) Any amount over ten million dollars but less than or equal to one hundred million dollars shall be taxed at the rate of two percent through December 31, 1990;~~

~~(c)(i) Effective January 1, 1991, through December 31, 1993, any amount over ten million dollars but less than or equal to eighty million dollars shall be taxed at the rate of two and one-half percent; and~~

~~(ii) Effective January 1, 1994, any amount over ten million dollars but less than or equal to eighty million dollars shall be taxed at the rate of three percent;~~

~~(d)(i) (iii) Any amount in excess of one hundred million dollars shall be taxed at the rate of five percent through December 31, 1990; and~~

~~(ii) Effective January 1, 1991, any amount in excess of eighty million dollars shall be taxed at the rate of four percent; and~~

~~(e)(i) (iv) An amount equal to two percent of the first taxable ninety seventy million dollars at each race enclosure during a calendar year meeting shall be~~

retained by the licensee for capital improvements and for maintenance of the premises within the licensed racetrack enclosure and shall be a credit against the tax levied in subdivisions (b)(iii) and (b)(iii) of this subdivision this section through December 31, 1993; and

(ii) Beginning January 1, 1994, an amount equal to one percent of the first taxable seventy million dollars at each race meeting shall be retained by the licensee for capital improvements and for maintenance of the premises within the licensed racetrack enclosure and shall be a credit against the tax levied in this section. 7 and

(2) For meets commencing on or after January 1, 1991, any amount in excess of twenty million dollars shall be taxed at the rate of four percent.

A return as required by the Tax Commissioner shall be filed for a race racetrack enclosure for each month during which wagers are accepted at the enclosure. The return shall be filed with and the net tax due pursuant to subdivisions (1) and (2) of this section shall be paid to the Department of Revenue on the tenth day of the following month.

Sec. 3. That section 9-1,101, Revised Statutes Supplement, 1989, be amended to read as follows:

9-1,101. (1) The Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which division is hereby created. The Department of Revenue shall make annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts.

(2) The Charitable Gaming Operations Fund is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(3) Thirty-five Forty percent of the taxes collected pursuant to sections 9-239, 9-344, 9-429, and 9-648 shall be available to the Charitable Gaming Division for administering and enforcing the acts. The remaining sixty-five sixty percent, along with any portion of the thirty-five forty percent not used by the division in its administration and enforcement of such acts, shall be transferred to the General Fund.

(4) The Tax Commissioner shall employ investigators and inspectors who shall be appointed deputy state sheriffs by the Governor and who shall, upon qualifying for such office, possess all the powers which attach to such office, except that their powers and duties shall be restricted to the enforcement of the acts.

Sec. 4. That section 9-239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-239. (1) The department shall collect a state tax of six percent on the gross receipts received from the conducting of bingo within the state. Such tax shall be ~~paid~~ remitted to the department and credited to the Charitable Gaming Operations Fund. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with any other reports as may be required by the department. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

(2) Any city or village is hereby directed to impose a tax of ~~four~~ two percent on the gross receipts received from the conducting of bingo within such city or village. Where bingo is conducted outside the limits of any incorporated city or village, the county in which such bingo is conducted shall impose a tax of ~~four~~ two percent on the gross receipts from the conducting of bingo outside the corporate limits of such city or village. Such tax shall be credited to the general fund of the county, city, or village which issued a permit for the conducting of bingo pursuant to section 9-236. Such tax shall be ~~paid~~ remitted to the clerk of the political subdivision imposing the tax, and the clerk shall ~~transmit~~ remmit the tax to the treasurer of such subdivision. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with such reports as may be required by the political subdivision imposing the tax. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

Sec. 5. That section 9-344, Revised Statutes Supplement, 1989, be amended to read as follows:

9-344. Accompanying the monthly reports required in section 9-343, the distributor shall ~~pay~~ remmit to the department a tax equal to ~~thirteen~~ ten percent of the definite profit of each pickle card unit sold by the distributor. Such tax shall be remitted with and reported on a form prescribed by the department on a monthly basis ~~commencing on and after October 1,~~

1989, and shall be due and payable within thirty days after each monthly period or by the last day of the month following each monthly period, whichever comes first. Such tax shall be credited to the Charitable Gaming Operations Fund, ~~of the state.~~ The distributor shall include the tax due under this section in the selling price of units and shall separately state such tax on the invoice. All deficiencies of the tax prescribed in this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Sec. 6. That section 9-614, Revised Statutes Supplement, 1989, be amended to read as follows:

9-614. Lottery operator shall mean any individual, sole proprietorship, partnership, or corporation which operates a lottery on behalf of a county, city, or village.

A lottery operator shall be a resident of Nebraska or, if a partnership or corporation, shall be organized under the laws of this state as a partnership or incorporated under the laws of this state Nebraska Business Corporation Act.

Sec. 7. Sections 3 to 6 and 8 of this act shall become operative on October 1, 1990. The other sections of this act shall become operative on their effective date.

Sec. 8. That original section 9-239, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,101, 9-344, and 9-614, Revised Statutes Supplement, 1989, are repealed.

Sec. 9. That original sections 2-1207 and 2-1208.01, Revised Statutes Supplement, 1989, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.