

CHARITABLE GAMING DIVISION

NEBRASKA PICKLE CARD LOTTERY ACT



NEBRASKA DEPARTMENT OF REVENUE

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BINGO AND OTHER GAMBLING
ARTICLE 3
PICKLE CARDS

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9-301. Act, how cited. Sections 9-301 to 9-356 shall be known and may be cited as the Nebraska Pickle Card Lottery Act.

Source: Laws 1986, LB 1027, § 67; Laws 1988, LB 1232, § 4; Laws 1991, LB 795, § 1; Laws 1994, LB 694, § 62; Laws 1996, LB 1277, § 2; Laws 2002, LB 545, § 21.

Operative date: July 20, 2002.

9-302. Purposes of act. (1) The purpose of the Nebraska Pickle Card Lottery Act is to protect the health and welfare of the public, to protect the economic welfare and interest in pickle card sales and winnings, to insure that the profits derived from the operation of lottery by the sale of pickle cards are accurately reported in order that their revenue-raising potential be fully exposed, to insure that the profits are used for legitimate purposes, and to prevent the purposes for which the profits of lottery by the sale of pickle cards are to be used from being subverted by improper elements. Lottery by the sale of pickle cards shall be played and conducted only by those methods permitted in the Nebraska Pickle Card Lottery Act. No other form, means of selection or method of play shall be authorized or permitted.

(2) The purpose of the Nebraska Pickle Card Lottery Act is also to completely and fairly regulate each level of the traditional marketing scheme of pickle cards to insure fairness, quality, and compliance with the Constitution of the State of Nebraska. To accomplish such purpose, the regulation and licensure of manufacturers of pickle cards, nonprofit organizations, distributors, sales agents, pickle card operators, and any other person involved in the marketing scheme are necessary.

Source: Laws 1986, LB 1027, § 68; Laws 1988, LB 1232, § 5.

9-303. Definitions, where found. For purposes of the Nebraska Pickle Card Lottery Act, unless the context otherwise requires, the definitions found in sections 9-304 to 9-321.02 shall be used.

Source: Laws 1986, LB 1027, § 69; Laws 1988, LB 1232, § 6; Laws 1994, LB 694, § 63; Laws 2003, LB 3, § 2.

Effective date: August 31, 2003.

9-304. Allowable expenses, defined. Allowable expenses shall mean:

- (1) All costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed to participants;
- (2) All office expenses;
- (3) All promotional expenses;
- (4) All salaries of persons employed to operate the lottery by the sale of pickle cards;
- (5) Any rental or lease expense;

(6) Any fee paid to any person associated with the operation of any lottery by the sale of pickle cards, including any commission paid to a sales agent and any expense for which a sales agent is reimbursed;

(7) Any delivery or shipping charge incurred by a licensed organization in connection with the lottery by the sale of pickle cards;

(8) Any license fees paid to the department to license the organization, each utilization-of-funds member, and each sales agent and any pickle card dispensing device registration fees paid to the department to register devices utilized at the licensed organization's designated premises or its bingo occasions; and

(9) Any pickle card dispensing device repairs or maintenance paid by the licensed organization.

Source: Laws 1986, LB 1027, § 70; Laws 1988, LB 1232, § 7; Laws 1994, LB 694, § 64; Laws 2002, LB 545, § 22.

Operative date: July 20, 2002.

9-305. Cancel, defined. Cancel shall mean to discontinue all rights and privileges to hold a license for up to three years.

Source: Laws 1986, LB 1027, § 71.

9-305.01. Definite profit, defined. Definite profit shall mean the gross proceeds from a pickle card unit less all of the possible prizes in the unit.

Source: Laws 1988, LB 1232, § 8; Laws 1989, LB 767, § 28.

9-306. Department, defined. Department shall mean the Department of Revenue.

Source: Laws 1986, LB 1027, § 72.

9-306.01. Designated premises, defined. Designated premises shall mean one location selected by a licensed organization at which individual pickle cards may be sold as opportunities for participation in a lottery by the sale of pickle cards. Only one of the following types of locations may be selected as a designated premises: (1) In the case of an organization holding a certificate of exemption under section 501(c)(3), (c)(4), or (c)(5) of the Internal Revenue Code or a volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad, one piece of real property which is owned, leased, or used by the organization as its principal office, which is in use by the organization primarily for purposes other than the conduct of gaming activities, and which is not used in connection with any other type of retail business activity other than an occasional sale as defined in section 77-2701.24; or (2) In the case of an organization holding a certificate of exemption under section 501(c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code, one piece of real property which is owned, leased, or used by the organization as its principal office and which is in use by the organization primarily for purposes other than the conduct of gaming activities. For purposes of this section, principal office shall mean the place where the principal affairs and business of the licensed organization are transacted, including where the officers and members assemble to discuss and transact the business of the organization, where its meetings are held, and generally where its records are kept.

Source: Laws 1988, LB 1232, § 9; Laws 1989, LB 767, § 29; Laws 1991, LB 427, § 29; Laws 1992, LB 871, § 1; Laws 1996, LB 1277, § 3; Laws 2002, LB 545, § 23; Laws 2003, LB 282, § 1.

Note: The change made by LB 282, § 1, becomes operative on January 1, 2004.

9-307. Distributor, defined. Distributor shall mean any person licensed pursuant to section 9-330, who purchases or otherwise obtains pickle card units from manufacturers and sells, distributes, or otherwise provides pickle card units in this state to licensed organizations.

Source: Laws 1986, LB 1027, § 73; Laws 1994, LB 694, § 65.

Operative date: October 1, 1994.

9-308. Gross proceeds, defined. Gross proceeds shall mean the total possible receipts from the sale of all pickle cards in any pickle card unit.

Source: Laws 1983, LB 259, § 7; Laws 1984, LB 949, § 13; R.S.Supp., 1984, § 9-140.03; Laws 1986, LB 1027, § 74.

9-308.01. Gross profit, defined. Gross profit shall mean the definite profit from the sale of a pickle card unit less any commission paid by a licensed organization to a pickle card operator selling individual pickle cards on behalf of the licensed organization.

Source: Laws 1988, LB 1232, § 10.

9-309. Lawful purpose, defined. (1) Lawful purpose, for a licensed organization making a donation of its net profits derived from its lottery by the sale of pickle cards solely for its own organization, shall mean donating such net profits for any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

(2) Lawful purpose, for a licensed organization making a donation of its net profits derived from its lottery by the sale of pickle cards outside of its organization, shall mean donating such net profits only to: (a) The State of Nebraska or any political subdivision thereof, but only if the contribution or gift is made exclusively for public purposes; (b) A corporation, trust, community chest, fund, or foundation: (i) Created or organized under the laws of Nebraska which has been in existence for five consecutive years immediately preceding the date of the donation and which has its principal office located in Nebraska; (ii) Organized and operated

exclusively for religious, charitable, scientific, literary, or educational purposes, for the prevention of cruelty to children or animals, or to foster national or international amateur sports competition; (iii) No part of the net earnings of which inures to the benefit of any private shareholder or individual; (iv) Which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code by reason of attempting to influence legislation; and (v) Which does not participate in any political campaign on behalf of any candidate for political office; (c) A post or organization of war veterans or an auxiliary unit or society of, trust for, or foundation for any such post or organization: (i) Organized in the United States or in any territory or possession thereof; and (ii) No part of the net earnings of which inures to the benefit of any private shareholder or individual; or (d) a volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad serving any city, village, county, township, or rural or suburban fire protection district in Nebraska.

(3) No donation of net profits under this section shall (a) inure to the benefit of any individual member of the licensed organization making the donation except to the extent it is in furtherance of the purposes described in this section or (b) be used for any activity which attempts to influence legislation or for any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

Source: Laws 1986, LB 1027, § 75; Laws 1988, LB 1232, § 11; Laws 1994, LB 694, § 66; Laws 1995, LB 344, § 11; Laws 1995, LB 574, § 8; Laws 2002, LB 545, § 24.

Operative date: July 20, 2002.

9-310. License, defined. License shall mean any license to conduct a lottery by the sale of pickle cards as provided in section 9-326, any license for a utilization-of-funds member as provided in section 9-327, any sales agent's license as provided in section 9-329, any pickle card operator's license as provided in section 9-329.02, any distributor's license as provided in section 9-330, or any manufacturer's license as provided in section 9-332.

Source: Laws 1986, LB 1027, § 76; Laws 1989, LB 767, § 30; Laws 1994, LB 694, § 67.

Operative date: October 1, 1994.

9-311. Licensed organization, defined. Licensed organization shall mean a nonprofit organization or volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad licensed to conduct a lottery by the sale of pickle cards under the Nebraska Pickle Card Lottery Act.

Source: Laws 1986, LB 1027, § 77; Laws 2002, LB 545, § 25.

Operative date: July 20, 2002.

9-312. Lottery by the sale of pickle cards, defined. Lottery by the sale of pickle cards shall mean any gambling scheme in which participants pay or agree to pay something of value for a pickle card. Any lottery by the sale of pickle cards shall be conducted pursuant to and in accordance with the Nebraska Pickle Card Lottery Act.

Lottery by the sale of pickle cards shall not mean or include any activity authorized or regulated under the Nebraska Bingo Act, except as provided in section 9-346, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, section 9-701, or Chapter 2, article 12, nor shall lottery by the sale of pickle cards mean or include any activity prohibited under Chapter 28, article 11.

Source: Laws 1986, LB 1027, § 78; Laws 1991, LB 849, § 46; Laws 1993, LB 138, § 4; Laws 2000, LB 658, § 1.

Effective date: July 13, 2000

Cross References:

Nebraska Bingo Act, see section 9-201. **Nebraska County and City Lottery Act**, see section 9-601. **Nebraska Lottery and Raffle Act**, see section 9-401. **Nebraska Small Lottery and Raffle Act**, see section 9-501. **State Lottery Act**, see section 9-801.

9-313. Manufacturer, defined. Manufacturer shall mean any person who assembles from raw materials or subparts a completed piece or pieces of pickle cards and pickle card units.

Source: Laws 1985, LB 408, § 10; R.S.Supp., 1985, § 9-140.15; Laws 1986, LB 1027, § 79.

9-314. Member, defined. Member shall mean a person who has qualified for and been admitted to membership in a licensed organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement for purposes other than conducting activities under the Nebraska Pickle Card Lottery Act. Member shall not include social or honorary members.

Source: Laws 1986, LB 1027, § 80; Laws 1988, LB 1232, § 12.

9-314.01. Net profit, defined. Net profit shall mean the gross profit from the sale of a pickle card unit less the unit cost and allowable expenses incurred by a licensed organization in connection with the sale of a pickle card unit.

Source: Laws 1988, LB 1232, § 13.

9-315. Pickle card, defined. Pickle card shall mean any disposable card, board, or ticket which accords a person an opportunity to win a cash prize by opening, pulling, detaching, or otherwise removing one or more tabs from the card, board, or ticket to reveal a set of numbers, letters, symbols, or configurations, or any combination thereof, and shall include, but not be limited to, any card known as a pickle ticket, pickle, break-open, pull-tab, pull-tab board, punchboard, seal card, pull card, or any other similar card, board, or ticket which is included under this section, whether referred to by any other name.

Pickle card shall not mean or include any: (1) Card used in connection with bingo conducted pursuant to the Nebraska Bingo Act, except as provided in section 9-346;

(2) Racing ticket or wager in connection with any horserace conducted pursuant to Chapter 2, article 12;

(3) Scrape-off or rub-off ticket;

(4) Card, ticket, or other device used in connection with any kind of gambling, lottery, raffle, or gift enterprise authorized or regulated under the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or section 9-701; or

(5) Card, ticket, or other device prohibited under Chapter 28, article 11.

Source: Laws 1986, LB 1027, § 81; Laws 1991, LB 849, § 47; Laws 1993, LB 138, § 5; Laws 1994, LB 694, § 68; Laws 1996, LB 1277, § 4; Laws 2000, LB 658, § 2.
Effective date: July 13, 2000.

Cross References:

Nebraska Bingo Act, see section 9-201. **Nebraska County and City Lottery Act**, see section 9-601. **Nebraska Lottery and Raffle Act**, see section 9-401. **Nebraska Small Lottery and Raffle Act**, see section 9-501. **State Lottery Act**, see section 9-801.

9-316. Pickle card operator, defined. Pickle card operator shall mean any sole proprietorship, partnership, limited liability company, or corporation which sells individual pickle cards on behalf of the licensed organization.

Source: Laws 1985, LB 408, § 9; R.S.Supp., 1985, § 9-140.14; Laws 1986, LB 1027, § 82; Laws 1988, LB 1232, § 14; Laws 1993, LB 121, § 109.

9-317. Pickle card unit, defined. Pickle card unit shall mean a series or complete set of pickle cards, which consists of all winning and losing cards in a particular unit, set, series, deal, or scheme for a lottery by the sale of pickle cards, in the receptacle or box in and with which the unit of pickle cards is sold by a distributor.

Source: Laws 1983, LB 259, § 9; Laws 1984, LB 949, § 15; R.S.Supp., 1984, § 9-140.05; Laws 1986, LB 1027, § 83.

9-317.01. Premises, defined. Premises shall mean a building or a distinct portion of a building and shall not include any area of land surrounding the building.

Source: Laws 1988, LB 1232, § 15.

9-318. Repealed. Laws 1988, LB 1232, § 54.

9-319. Revoke, defined. Revoke shall mean to permanently void and recall all rights and privileges of an organization or a person to obtain a license.

Source: Laws 1986, LB 1027, § 85.

9-320. Sales agent, defined. Sales agent shall mean any person who markets, sells, or delivers any pickle card unit on behalf of a licensed organization to any licensed pickle card operator.

Source: Laws 1985, LB 408, § 8; R.S.Supp., 1985, § 9-140.13; Laws 1986, LB 1027, § 86; Laws 1988, LB 1232, § 16.

9-321. Suspend, defined. Suspend shall mean to cause a temporary interruption of all rights and privileges of a license or the renewal thereof.

Source: Laws 1986, LB 1027, § 87.

9-321.01. Unit cost, defined. Unit cost shall mean the total cost of a pickle card unit paid by a licensed organization to a distributor.

Unit cost shall include the tax on definite profit prescribed in section 9-344 and any applicable sales tax. Unit cost shall also include any applicable federal gaming tax for which the licensed organization is liable in connection with its purchase or sale of a pickle card unit.

Source: Laws 1988, LB 1232, § 17.

9-321.02. Utilization-of-funds member, defined. Utilization-of-funds member shall mean a member of the organization who shall be responsible for supervising the conduct of the lottery by the sale of pickle cards and for the proper utilization of the gross proceeds derived from the conduct of the lottery by the sale of pickle cards.

Source: Laws 1994, LB 694, § 69.

Operative date: October 1, 1994.

9-321.03. Volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad, defined. Volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad shall mean a volunteer association or organization serving any city, village, county, township, or rural or suburban fire protection district in Nebraska by providing fire protection or emergency response services for the purpose of protecting human life, health, or property.

Source: Laws 2002, LB 545, § 26.

Operative date: July 20, 2002.

9-322. Department; powers, functions, and duties. The department shall have the following powers, functions, and duties: (1) To issue licenses and temporary licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall include instances in which the applicant individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the applicant or licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant or licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 1, subchapter D of the Internal Revenue Code, from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts; (b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts; (c) Obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment; (d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level; (e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application; (f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card activity required to be licensed under the Nebraska Pickle Card Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (g) Made a misrepresentation of or failed to disclose a material fact to the department; (h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska Pickle Card Lottery Act; (i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act, or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; (j) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act; (k) Failed to demonstrate good character, honesty, and integrity; (l) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made; or (m) was cited and whose liquor license was suspended, canceled, or revoked by the Nebraska Liquor Control Commission for illegal gambling activities that occurred on or after July 20, 2002, on or about a premise licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated to the act;

No renewal of a license under the Nebraska Pickle Card Lottery Act shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 1, subchapter D of the Internal Revenue Code from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts; (b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated pursuant to the act; (c) Obtained a license pursuant to the Nebraska Pickle Card Lottery Act by fraud, misrepresentation, or concealment; (d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level; (e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application; (f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (g) Made a misrepresentation of or failed to disclose a material fact to the department; (h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act, or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; (i) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or

the Nebraska Pickle Card Lottery Act; (j) Failed to demonstrate good character, honesty, and integrity; (k) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to maintain the activity for which the license was issued; or (l) Was cited and whose liquor license was suspended, canceled, or revoked by the Nebraska Liquor Control Commission for illegal gambling activities that occurred on or after July 20, 2002, on or about a premise licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated to the act;

(4) To issue an order requiring a licensee or other person to cease and desist from violations of the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated to such act. The order shall give reasonable notice of the rights of the licensee or other person to request a hearing and shall state the reason for the entry of the order. The notice of order shall be mailed or personally served upon the licensee or other person. If the notice of order is mailed, the date the notice is mailed shall be deemed to be the date of service of notice to the licensee or other person. A request for a hearing by the licensee or other person shall be in writing and shall be filed with the department within thirty days after the service of the cease and desist order. If a request for hearing is not filed within the thirty-day period, the cease and desist order shall become permanent at the expiration of such period. A hearing shall be held not later than thirty days after the request for the hearing is received by the Tax Commissioner, and within twenty days after the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the rules and regulations adopted and promulgated by the department. If the licensee or other person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee or other person shall be deemed in default and the proceeding may be determined against the licensee or other person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which the individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation, the intent of the violator, whether the violator voluntarily reported the violation, whether the violator derived financial gain as a result of the violation and the extent thereof, and whether the violator has had previous violations of the act, rules, or regulations. A fine levied on a violator under this section shall not exceed one thousand dollars for each violation of the act or any rule or regulation adopted and promulgated pursuant to the act plus the financial benefit derived by the violator as a result of each violation. If an administrative fine is levied, the fine shall not be paid from pickle card lottery gross proceeds of an organization and shall be remitted by the violator to the department within thirty days after the date of the order issued by the department levying such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where lottery by the sale of pickle cards activity required to be licensed under the act is being conducted to determine whether any of the provisions of such act or any rules or regulations adopted and promulgated under such act have been or are being violated and at such time to examine such premises;

(7) To require periodic reports of lottery by the sale of pickle cards activity from licensed manufacturers, distributors, nonprofit organizations, sales agents, pickle card operators, and any other persons, organizations, limited liability companies, or corporations as the department deems necessary to carry out the act.;

(8) To require annual registration of coin-operated and currency-operated devices used for the dispensing of pickle cards, to issue registration decals for such devices, to prescribe all forms necessary for the registration of such devices, and to impose administrative penalties for failure to properly register such devices;

(9) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of lottery by the sale of pickle cards of any licensee, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(10) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes imposed by the act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(11) To collect license application and license renewal application fees imposed by the Nebraska Pickle Card Lottery Act and to prorate license fees on an annual basis. The department shall establish by rule and regulation the conditions and circumstances under which such fees may be prorated;

(12) To inspect pickle cards and pickle card units as provided in section 9-339;

(13) To confiscate, seize, or seal pickle cards, pickle card units, or coin-operated or currency-operated pickle card dispensing devices pursuant to section 9-350;

(14) To adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out the Nebraska Pickle Card Lottery Act; and

(15) To employ staff, including auditors and inspectors, as necessary to carry out the act.

Source: Laws 1986, LB 1027, § 88; Laws 1988, LB 1232, § 18; Laws 1989, LB 767, § 31; Laws 1991, LB 427, § 30; Laws 1991, LB 849, § 48; Laws 1993, LB 138, § 6; Laws 1994, LB 694, § 70; Laws 1995, LB 344, § 12; Laws 1995, LB 574, § 9; Laws 1997, LB 248, § 9; Laws 2000, LB 1086, § 10; Laws 2002, LB 545, § 27; Laws 2002, LB 1126, § 2, Laws 2012, LB 727, § 4.

Operative date: April 12, 2012.

Cross References:

Nebraska Bingo Act, see section 9-201. **Nebraska County and City Lottery Act**, see section 9-601. **Nebraska Lottery and Raffle Act**, see section 9-401. **Nebraska Revenue Act of 1967**, see section 77-2701. **Nebraska Small Lottery and Raffle Act**, see section 9-501. **State Lottery Act**, see section 9-801.

9-322.01. Administrative fine; disposition. (1) All money collected by the department as an administrative fine shall be transmitted on a monthly basis to the State Treasurer who shall deposit such money in the permanent school fund.

(2) Any administrative fine levied under section 9-322 and unpaid shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure, or sued for and recovered in any proper form of action, in the name of the State of Nebraska, in the district court of the county in which the violator resides or owns property.

Source: Laws 1988, LB 1232, § 19; Laws 1994, LB 694, § 71.

Operative date: October 1, 1994.

9-322.02. Denial of application; procedure. (1) Before any application is denied pursuant to section 9-322, the department shall notify the applicant in writing by mail of the department's intention to deny the application and the reasons for the denial. Such notice shall inform the applicant of his or her right to request an administrative hearing for the purpose of reconsideration of the intended denial of the application. The date the notice is mailed shall be deemed to be the date of service of notice to the applicant.

(2) A request for a hearing by the applicant shall be in writing and shall be filed with the department within thirty days after the service of notice to the applicant of the department's intended denial of the application. If a request for hearing is not filed within the thirty-day period, the application denial shall become final at the expiration of such period.

(3) If a request for hearing is filed within the thirty-day period, the Tax Commissioner shall grant the applicant a hearing and shall, at least ten days before the hearing, serve notice upon the applicant by mail of the time, date, and place of the hearing. Such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

Source: Laws 1988, LB 1232, § 20; Laws 2002, LB 545, § 28, Laws 2012, LB 727, § 5.

Operative date: April 12, 2012.

Cross Reference:

Administrative Procedure Act, see section 84-920.

9-322.03. Repealed

Source: Laws 1991, LB 795, § 2, Laws 2007, LB 638, § 21.

Effective date: September 1, 2007

9-323. Suspension of license; limitation; procedure. (1) The Tax Commissioner may suspend any license issued pursuant to the Nebraska Pickle Card Lottery Act except a license issued pursuant to section 9-326, except that no order to suspend any license shall be issued unless the department determines that the licensee is not operating in accordance with the purposes and intent of the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts. The Tax Commissioner may suspend a license issued pursuant to section 9-326 after a hearing upon a finding by the department that the licensee is not operating in accordance with the purposes and intent of such acts.

(2) Before any license is suspended prior to a hearing, notice of an order to suspend a license shall be mailed to or personally served upon the licensee at least fifteen days before the order of suspension takes effect.

(3) The order of suspension may be withdrawn if the licensee provides the department with evidence that any prior findings or violations have been corrected and that the licensee is now in full compliance, whether before or after the effective date of the order of suspension.

(4) The Tax Commissioner may issue an order of suspension pursuant to subsections (1) and (2) of this section when an action for suspension, cancellation, or revocation is pending. The Tax Commissioner may also issue an order of suspension after a hearing for a limited time of up to one year without an action for cancellation or revocation pending.

(5) The hearing for suspension, cancellation, or revocation of the license shall be held within twenty days after the date the suspension takes effect. A request by the licensee to hold the hearing after the end of the twenty-day period shall extend the suspension until the hearing.

(6) The decision of the department shall be made within twenty days after the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of suspension, revocation, or cancellation is not appropriate, the suspension shall terminate immediately by order of the Tax Commissioner. If the decision is an order for the suspension, revocation, or cancellation of the license, the suspension shall continue pending an appeal of the decision of the department.

(7) Any period of suspension prior to the issuance of an order of suspension issued by the Tax Commissioner shall count toward the total amount of time a licensee shall be suspended from gaming activities under the Nebraska Pickle Card Lottery Act. Any period of suspension prior to the issuance of an order of cancellation shall not reduce the period of the cancellation. Any period of suspension after the issuance of the order and during an appeal shall be counted as a part of the period of cancellation.

Source: Laws 1986, LB 1027, § 89; Laws 1988, LB 1232, § 21; Laws 1991, LB 427, § 31; Laws 1995, LB 344, § 13.

Effective date: September 9, 1995.

9-324. Hearing; required; when; notice. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license pursuant to section 9-322, or the levying of an administrative fine pursuant to section 9-322, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to levy an administrative fine shall be contested cases pursuant to the Administrative Procedure Act.

At least ten days before the hearing, the department shall (1) in the case of suspension, revocation, or cancellation proceedings or proceedings to levy an administrative fine, serve notice upon the licensee or violator by personal service or mail of the time, date, and place of any hearing or (2) in the case of adoption, amendment, or repeal of any rule or regulation, issue a public notice of the time, date, and place of such hearing.

This section shall not apply to an order of suspension by the Tax Commissioner prior to a hearing as provided in section 9-323.

Source: Laws 1986, LB 1027, § 90; Laws 1988, LB 1232, § 22; Laws 1991, LB 427, § 32; Laws 1994, LB 694, § 72; Laws 1995, LB 344, § 14; Laws 2012, LB 727, § 6.

Effective date: April 12, 2012.

Cross Reference:

Administrative Procedure Act, see section 84-920.

9-325. Proceeding before department; service; security; appeal. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding, to such party at such address, shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department deems adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) Any decision of the department in any proceeding before it may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1986, LB 1027, § 91; Laws 1988, LB 352, § 15; Laws 1988, LB 1232, § 23.

Cross Reference:

Administrative Procedure Act, see § 84-920.

9-326. License; qualified applicants. (1) Any nonprofit organization holding a certificate of exemption under section 501(c)(3), (c)(4), (c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad may apply for a license to conduct a lottery by the sale of pickle cards.

(2) Prior to applying for any license, an organization shall: (a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization. For purposes of this subsection, a domesticated foreign corporation shall not be considered incorporated in this state as a not-for-profit corporation; (b) Conduct activities within this state in addition to the conduct of lottery by the sale of pickle cards; (c) Be authorized by its constitution, articles, charter, or bylaws to further in this state a lawful purpose; (d) Operate without profit to its members, and no part of the net earnings of such organization shall inure to the benefit of any private shareholder or individual; and (e) With the exception of a volunteer fire company, a volunteer first-aid, rescue, ambulance, or emergency squad, or a not-for-profit corporation whose primary purpose is to support a volunteer fire company, first-aid squad, rescue squad, ambulance squad, or emergency squad, have been in existence in this state for five years immediately preceding its application for a license and have had during that five-year period a bona fide membership actively engaged in furthering a lawful purpose. A society defined in section 21-608 which is chartered in Nebraska under a state, grand, supreme, national, or other governing body may use the charter date of its parent organization to satisfy such five-year requirement.

Source: Laws 1986, LB 1027, § 92; Laws 1988, LB 1232, § 24; Laws 1989, LB 767, § 32; Laws 1996, LB 1277, § 5; Laws 2002, LB 545, § 29; Laws 2012, LB 979, § 1.

Effective date: July 19, 2012.

9-327. License; application; contents; enumerated; duty to keep current. (1) Each applicant for a license to conduct a lottery by the sale of pickle cards shall file with the department an application on a form prescribed by the department.

(2) Each application shall include: (a) The name and address of the applicant; (b) Sufficient facts relating to the incorporation or organization of the applicant to enable the department to determine if the applicant is eligible for a license under section 9-326; (c) The name and address of each officer of the applicant organization; (d) The name, address, social security number, date of birth, and years of membership of a bona fide and active member of the applicant organization to be licensed as a utilization-of-funds member. Such person shall have been an active and bona fide member of the applicant organization for at least one year preceding the date the application is filed with the department unless the applicant organization can provide evidence that the one-year requirement would impose an undue hardship on the organization. Such person shall sign a sworn statement indicating that he or she agrees to comply with all provisions of the Nebraska Pickle Card Lottery Act and all rules and regulations adopted pursuant to the act, that no commission, fee, rent, salary, profits, compensation, or recompense will be paid to any person or organization, except payments authorized by the Nebraska Pickle Card Lottery Act, and that all net profits will be spent only for lawful purposes. The department may prescribe a separate application for such license; (e) A roster of members if the department deems it necessary and proper; and (f) Other information which the department deems necessary.

(3) The information required by this section shall be kept current. An organization shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(4) The department may prescribe a separate application form for renewal purposes.

Source: Laws 1986, LB 1027, § 93; Laws 1988, LB 1232, § 25; Laws 1994, LB 694, § 73.

Operative date: October 1, 1994.

9-328. Licenses; renewal; application; requirements; classes; fees. (1) All licenses to conduct a lottery by the sale of pickle cards and licenses issued to utilization-of-funds members shall expire as provided in this section and may be renewed biennially. An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration date of the license unless such application only pertains to the conduct of a lottery by the sale of pickle cards at a special function as provided in section 9-345.01.

(2) A license to conduct a lottery by the sale of pickle cards issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code and any license issued to a utilization-of-funds member for such nonprofit organization shall expire on September 30 of each odd-numbered year or on such other date as the department may prescribe by rule and regulation.

(3) A license to conduct a lottery by the sale of pickle cards issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad and any license issued to a utilization-of-funds member for such nonprofit organization or volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad shall expire on September 30 of each even-numbered year or on such other date as the department may prescribe by rule and regulation.

(4) The department shall establish classes of licenses for licensed organizations based upon the manner in which the licensed organization intends to sell pickle cards. The classes shall include: (a) Class I licenses which shall include organizations which sell individual pickle cards only at the organization's designated premises and at the organization's licensed regularly scheduled bingo occasions pursuant to the Nebraska Bingo Act; and (b) Class II licenses which shall include organizations which sell the pickle cards on the premises of one or more licensed pickle card operators.

A licensed organization holding a Class II license shall be required to market and deliver its pickle cards by a licensed sales agent.

(5) A biennial license fee of two hundred dollars shall be charged for each Class I license, three hundred dollars for each Class II license, and forty dollars for a license for each utilization-of-funds member.

(6) The department shall adopt and promulgate rules and regulations establishing reporting requirements for each class of license.

Source: Laws 1986, LB 1027, § 94; Laws 1988, LB 1232, § 26; Laws 1989, LB 767, § 33; Laws 1991, LB 427, § 33; Laws 1994, LB 694, § 74; Laws 2000, LB 1086, § 11; Laws 2002, LB 545, § 30, Laws 2007, LB 638, § 9.

Effective date: September 1, 2007.

Cross Reference:

Nebraska Bingo Act, section 9-201.

9-329. Sales agent; license required; application; contents; fee; temporary license. (1) Unless otherwise authorized by the department, no person shall market, sell, or deliver any pickle card unit to any pickle card operator without first obtaining a sales agent license.

(2) Any person wishing to operate as a sales agent in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and social security number of the person applying for the license, (b) the name and state identification number of the licensed organization for which any pickle card units are to be marketed or sold by the applicant, and (c) such other information which the department deems necessary.

(3) A statement signed by the person licensed as a utilization-of-funds member signifying that such licensed organization approves the applicant to act as a sales agent on behalf of such organization shall accompany each sales agent's application for a license. No person licensed as a utilization-of-funds member shall be licensed as a sales agent.

(4)(a) A biennial fee of one hundred dollars shall be charged for each license issued pursuant to this section. The department shall remit the proceeds from such fee to the State Treasurer for credit to the Charitable Gaming Operations Fund. Such licenses shall expire as prescribed in this section and may be renewed biennially. An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration date of the license. (b) A sales agent license issued to a person on behalf of a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the Internal Revenue Code shall expire on September 30 of each odd-numbered year or on such other date as the department may prescribe by rule and regulation. A sales agent license issued to a person on behalf of a nonprofit organization holding a certificate of exemption under section (501)(c)(5), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code or any volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad shall expire on September 30 of each even-numbered year or on such other date as the department may prescribe by rule and regulation.

(5) The information required by this section shall be kept current. A sales agent shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(6) The department may prescribe a separate application form for renewal purposes.

(7) The department may issue a temporary license pending receipt of additional information or further inquiry.

Source: Laws 1985, LB 408, § 18; R.S.Supp., 1985, § 9-143.01; Laws 1986, LB 1027, § 95; Laws 1988, LB 1232, § 31; Laws 1991, LB 427, § 34; Laws 1994, LB 694, § 75; Laws 2000, LB 1086, § 12; Laws 2002, LB 545, § 31, Laws 2007, LB 638, § 10.

Effective date: September 1, 2007.

9-329.01. Sales agent; license applicant; qualifications; licensee; limitations. (1) Prior to applying for a license as a sales agent for a licensed organization, the applicant shall have been an active and bona fide member of the licensed organization for one year preceding the date the application is filed with the department.

(2) No person applying for a license under this section shall hold a license as a sales agent for more than one licensed organization. This subsection shall not prohibit a licensed sales agent from applying for a license to represent another licensed organization as a sales agent if he or she has ceased being a sales agent for and will not continue to market pickle card units on behalf of the organization for which he or she is currently licensed and has obtained a written release of any legal obligations he or she has to such licensed organization. Such release shall be signed by a person licensed as a utilization-of-funds member and an officer of the licensed organization and shall state that the sales agent has satisfied all legal obligations he or she has to the licensed organization in connection with the lottery by the sale of pickle cards. When applicable, a copy of the written release shall accompany any application for a license to become a sales agent.

(3) Any sales agent licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor, manufacturer, or pickle card operator under section 9-329.03, 9-330, or 9-332 and, unless such sales agent does not directly or indirectly receive payment of any commission, salary, or fee for the sale, marketing, or delivery of pickle cards on behalf of the licensed organization or any other service on behalf of the licensed organization, shall not be a director, manager, trustee, or member of any governing committee, board, or body of the licensed organization on behalf of which the sales agent sells pickle card units.

Source: Laws 1988, LB 1232, § 27; Laws 1993, LB 121, § 110; Laws 1994, LB 694, § 76.

Operative date: October 1, 1994.

9-329.02. Pickle card operator; license required; application; contents; fee; restrictions; authorization required; equipment requirements. (1) A pickle card operator shall not be eligible to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards without first obtaining a license.

(2) Any sole proprietorship, partnership, limited liability company, or corporation wishing to operate as a pickle card operator in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and state identification number of the sole proprietorship, partnership, limited liability company, or corporation applying for the license, (b) a description of the premises on which the pickle cards will be sold or offered for sale, (c) if the applicant is an individual, the applicant's social security number, and (d) such other information which the department deems necessary. The information required by this subsection shall be kept current. A pickle card operator shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(3) A biennial fee of one hundred dollars shall be charged for each license issued pursuant to this section and shall be paid for by the applicant. A licensed organization shall not pay the required licensing fees of a pickle card operator as an inducement for the pickle card operator to sell individual pickle cards on its behalf. Such licenses shall expire on September 30 of each odd-numbered year or on such other date as the department may prescribe by rule and regulation and may be renewed biennially. The department shall remit the proceeds from such license fees to the State Treasurer for credit to the Charitable Gaming Operations Fund. An application for license renewal shall be submitted to the department at least sixty days prior to the expiration date of the license.

(4) One license issued to any sole proprietorship, partnership, limited liability company, or corporation under this section as a pickle card operator shall cover the sole proprietorship, partnership, limited liability company, or corporation and the employees of the licensed pickle card operator. Any license issued pursuant to this section shall be valid only for the sole proprietorship,

partnership, limited liability company, or corporation in the name of which it was issued and shall allow the sale of individual pickle cards only on the premises described in the pickle card operator's application for a license. A pickle card operator's license may not be transferred under any circumstances including change of ownership.

(5) The department may prescribe a separate application form for renewal purposes.

(6) A licensed pickle card operator shall not sell individual pickle cards on behalf of a licensed organization until an authorization has been obtained from the department by the licensed organization. The licensed organization shall file an application with the department for such authorization on a form prescribed by the department. Each application for an authorization shall include (a) the name, address, and state identification number of the licensed pickle card operator and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a utilization-of-funds member signifying that such licensed organization approves the pickle card operator to sell individual pickle cards on behalf of such organization.

(7) A pickle card operator may sell individual pickle cards on behalf of more than one licensed organization. Each licensed organization for which the pickle card operator desires to sell individual pickle cards shall obtain the authorization described in subsection (6) of this section.

(8) A pickle card operator who sells individual pickle cards through a coin-operated or currency-operated dispensing device shall purchase, lease, or rent its own equipment. If such equipment is obtained from a licensed organization or distributor, it shall be purchased, leased, or rented at a rate not less than fair market value. A licensed organization or distributor shall not provide such equipment to a pickle card operator free of charge or at a rate less than fair market value as an inducement for the pickle card operator to sell a licensed organization's individual pickle cards. The department may require a licensed organization, distributor, or pickle card operator to provide such documentation as the department deems necessary to verify that a pickle card operator has purchased, leased, or rented the equipment for a rate not less than fair market value.

(9) No pickle card operator shall generate revenue from the sale of individual pickle cards which exceeds the revenue generated from other retail sales on an annual basis. For purposes of this subsection, retail sales shall not include revenue generated from other charitable gaming activities authorized by Chapter 9.

Source: Laws 1988, LB 1232, § 33; Laws 1989, LB 767, § 34; Laws 1991, LB 427, § 35; Laws 1993, LB 121, § 111; Laws 1994, LB 694, § 77; Laws 1995, LB 344 § 15, Laws 1997, LB 752, § 65; Laws 2000, LB 1086, § 13, Laws 2007, LB 638, § 11.

Effective date: September 1, 2007.

9-329.03. Pickle card operator; qualified applicant; licensee; limitations. (1) Any sole proprietorship, partnership, limited liability company, or corporation, which holds a retail license for the sale of alcoholic liquor for consumption on the premises issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a retail license for the sale of alcoholic liquor for consumption off the premises, may apply for a pickle card operator's license to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards.

(2) A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor or manufacturer under section 9-330 or 9-332.

(3) A sole proprietor, partner in a partnership, member in a limited liability company, or officer or director of a corporation licensed as a pickle card operator shall not be licensed as a sales agent.

(4) A sole proprietor, partner in a partnership, member in a limited liability company, or officer or director of a corporation licensed as a pickle card operator shall not be a director, manager, trustee, or member of any governing committee, board, or body of the licensed organization on behalf of which the pickle card operator sells individual pickle cards.

Source: Laws 1988, LB 1232, § 32; Laws 1991, LB 795, § 3; Laws 1993, LB 121, § 112; Laws 1997, LB 248, § 10; Laws 2004, LB 485, § 1.

Operative date: May 1, 2005.

Cross Reference:

Nebraska Liquor Control Act, see section 53-101.

9-329.04. Repealed. Laws 1997, LB 248, § 39. (Operative date October 1, 1997.)

9-330. Distributor's license; application; requirements; fee; renewal. Any applicant for a distributor's license, including renewal thereof, shall file an application with the department on a form prescribed by the department. Each application shall be accompanied by a biennial license fee of three thousand fifty dollars. At a minimum, the application shall include the name and address of the applicant, including all shareholders who own ten percent or more of the outstanding stock if the applicant is a corporation, the location of its office or business, a current list, if requested, of those organizations within the state to whom the applicant is selling pickle card units, and, if the applicant is an individual, the applicant's social security number. All applications shall include a sworn statement by the applicant or the appropriate officer thereof that the applicant will comply with all provisions of the Nebraska Pickle Card Lottery Act and all rules and regulations adopted and promulgated under such act.

The principal office of an applicant for a distributor's license or of a licensed distributor shall be located in Nebraska.

No person shall be issued a distributor's licenses if such person is not doing business or authorized to do business in this state.

Distributors' licenses shall expire on September 30 of every odd-numbered year or such other date as the department may prescribe by rule or regulation. Distributors' licenses may be renewed biennially. An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration of the license.

Source: Laws 1986, LB 1027, § 96; Laws 1991, LB 427, § 36; Laws 1994, LB 694, § 78; Laws 1997, LB 248, § 11; Laws 1997, LB 752, § 66.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB 248, section 11, with LB 752, section 66, to reflect all amendments.

Note: The changes made by LB 752 became effective September 13, 1997. The changes made by LB 248 became operative October 1, 1997.

9-331. Distributor; employee or spouse; participation in gambling; restrictions. (1) No person, except a distributor operating pursuant to the Nebraska Pickle Card Lottery Act, shall sell or distribute any pickle card units to any licensed organization.

(2) No distributor shall hold a license to conduct a lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9 or a license to act as a sales agent, pickle card operator, or manufacturer of pickle cards or pickle card units except as provided in sections 9-255.07 and 9-632.

(3) If a distributor delivers any pickle card unit, he or she shall deliver such unit only to a licensed utilization-of-funds member for pickle cards, a licensed sales agent, a licensed gaming manager, a bingo chairperson designated by an organization licensed to conduct bingo pursuant to the Nebraska Bingo Act, or a person who serves as a manager for a licensed organization which is exempt under section 501(c)(8), (c)(10), or (c)(19) of the Internal Revenue Code and shall not deliver any pickle card unit to any other person, including a pickle card operator.

(4) No distributor shall offer or agree to offer anything of value to any person in exchange for an agreement or commitment by such person to exclusively sell pickle cards sold by such distributor. Nothing in this section shall prohibit a licensed organization or pickle card operator from exclusively selling pickle cards sold by a single distributor. No licensed organization or pickle card operator shall accept or agree to accept anything of value from a distributor in exchange for an agreement or commitment by such licensed organization or pickle card operator to exclusively sell pickle cards sold by such distributor.

(5) No distributor or employee or spouse of any distributor shall participate in the conduct or operation of any lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed distributor and as provided in sections 9-255.07 and 9-632. No distributor or employee or spouse of any distributor shall have a substantial interest in another distributor, a manufacturer, a manufacturer-distributor as defined in section 9-616 other than itself, or a licensed organization or any other licensee regulated under Chapter 9. Membership in any organization shall not be deemed a violation of this section.

(6) A distributor shall purchase or otherwise obtain pickle card units only from a licensed manufacturer and shall pay for such units by check within thirty days of delivery.

Source: Laws 1986, LB 1027, § 97; Laws 1988, LB 1232, § 34; Laws 1989, LB 767, § 35; Laws 1994, LB 694, § 79; Laws 1997, LB 248, § 12; Laws 2002, LB 545, § 32.

Operative date: July 20, 2002.

Cross Reference:

Nebraska Bingo Act, see section 9-201.

9-332. Manufacturer of pickle cards; license required; application; fee; change in information; renewal. A manufacturer shall obtain a license from the department prior to manufacturing or selling or supplying to any licensed distributor in this state any pickle cards or pickle card units or engaging in any interstate activities relating to such pickle cards or pickle card units except that nothing in this section shall prohibit a manufacturer from marketing, selling, or otherwise providing pickle cards or pickle card units to a federally recognized Indian tribe for use in a Class II gaming activity authorized by the federal Indian Gaming Regulatory Act. The applicant shall include with the application form prescribed by the department a biennial license fee of three thousand fifty dollars, a sworn statement by the applicant or appropriate officer of the applicant that the applicant will comply with all provisions of the Nebraska Pickle Card Lottery Act and all rules and regulations adopted and promulgated pursuant to the act, and such other information as the department deems necessary. If the applicant is an individual, the application shall include the applicant's social security number.

The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. The applicant shall comply with all applicable laws of the United States and the State of Nebraska and all applicable rules and regulations of the department.

Manufacturers' licenses shall expire on September 30 of every odd-numbered year or such other date as the department may prescribe by rule and regulation. Manufacturers' licenses may be renewed biennially. An application for license renewal shall be submitted to the department at least forty-five days prior to the expiration date of the license.

Source: Laws 1985, LB 408, § 19; R.S.Supp., 1985, § 9-143.02; Laws 1986, LB 1027, § 98; Laws 1989, LB 767, § 36; Laws 1991, LB 427, § 37; Laws 1994, LB 694, § 80; Laws 1997, LB 248, § 13; Laws 1997, LB 752, § 67.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB 248, section 13, with LB 752, section 67, to reflect all amendments.

Note: The changes made by LB 752 became effective September 13, 1997. The changes made by LB 248 became operative October 1, 1997.

9-332.01. Manufacturer; premarketing activities; approval required. Each manufacturer shall receive departmental approval prior to selling in this state any type of pickle card, pickle card unit, punchboard, or other similar card, board, or ticket included in section 9-315 whether referred to by any other name intended for resale in Nebraska. Approval by the department shall be based upon, but not limited to, the manufacture, assembly, and packaging of pickle cards or pickle card units and any other specifications imposed by the Nebraska Pickle Card Lottery Act or any rule or regulation adopted and promulgated pursuant to the act.

Source: Laws 1988, LB 1232, § 30; Laws 1996, LB 1277, § 6.

Effective date: July 19, 1996.

9-333. Manufacturer; records. Each manufacturer shall keep and maintain a complete set of records detailing the manufacturer's pickle card activities, including the name and state identification number of each distributor purchasing pickle card units, the quantity and type of each pickle card unit sold, and any other information concerning pickle card units which the department deems necessary. Such records shall be made available to the department upon request. The department may require by rule and regulation periodic reporting from a manufacturer relative to its pickle card activities.

Source: Laws 1985, LB 408, § 26; R.S.Supp., 1985, § 9-143.05; Laws 1986, LB 1027, § 99; Laws 1988, LB 1232, § 35; Laws 1997, LB 248, § 14.

Operative date: October 1, 1997.

9-334. Nonresident manufacturer; designated agent for service of process. Each manufacturer selling pickle cards and pickle card units in this state that is not a resident or corporation shall designate a natural person who is a resident of and living in this state and is nineteen years of age or older as a resident agent for the purpose of receipt and acceptance of service of process and other communications on behalf of the manufacturer. The name, business address where service of process and delivery of mail can be made, and home address of such agent shall be filed with the department.

Source: Laws 1985, LB 408, § 21; R.S.Supp., 1985, § 9-143.06; Laws 1986, LB 1027, § 100; Laws 1994, LB 694, § 81.

Operative date: October 1, 1994.

9-335. Manufacturer; employee or spouse; restriction on activities. No manufacturer shall be licensed to conduct any other activity under the Nebraska Pickle Card Lottery Act. No manufacturer shall hold a license to conduct any other kind of gambling activity which is authorized or regulated under Chapter 9 except as provided in sections 9-255.09 and 9-632. No manufacturer or employee or spouse of any manufacturer shall participate in the conduct or operation of any lottery by the sale of pickle cards or any other kind of gambling activity which is authorized or regulated under Chapter 9 except to the exclusive extent of his or her statutory duties as a licensed manufacturer or employee thereof, as a lottery contractor pursuant to the State Lottery Act, and as provided in sections 9-255.09 and 9-632. No manufacturer or employee or spouse of any manufacturer shall have a substantial interest in any other manufacturer, any distributor, any manufacturer-distributor as defined in section 9-616 other than itself, or any licensed organization or any other licensee regulated under Chapter 9.

Source: Laws 1985, LB 408, § 27; R.S.Supp., 1985, § 9-143.03; Laws 1986, LB 1027, § 101; Laws 1989, LB 767, § 37; Laws 1994, LB 694, § 82.

Operative date: October 1, 1994.

Cross Reference:

State Lottery Act, see section 9-801.

9-336. Pickle card or pickle card unit; serial number required; manufacturer; duties. Each manufacturer of pickle cards or pickle card units shall assign a serial number to each unit of pickle cards he or she manufactures and place such number on each flare card supplied by such manufacturer and on each pickle card in the unit. No manufacturer shall sell or furnish to any person a unit of pickle cards with the same serial number as a unit which such manufacturer has previously distributed in this or any other state within the three years prior to such sale or furnishing.

Source: Laws 1985, LB 408, § 25; R.S.Supp., 1985, § 9-186.03; Laws 1986, LB 1027, § 102; Laws 1994, LB 694, § 83.

Operative date: October 1, 1994.

9-337. Pickle cards; construction standards. (1) Pickle cards shall be constructed so that it is impossible to determine the covered or concealed number, letter, symbol, configuration, or combination thereof on the pickle card until it has been dispensed to and opened by the player, by any method or device, including, but not limited to, the use of a marking, variance in size, variance in paper fiber, or light.

(2) All pickle cards shall be constructed to ensure that, when offered for sale to the public, the pickle card is virtually opaque and free of security defects so that winning pickle cards cannot be determined, prior to being opened, through the use of high-intensity lights or any other method.

(3) All pickle cards shall be constructed to conform in all other respects to the provisions and specifications imposed by the Nebraska Pickle Card Lottery Act or by rule or regulation as to the manufacture, assembly, or packaging of pickle cards or pickle card units.

Source: Laws 1985, LB 408, § 23; R.S.Supp., 1985, § 9-186.01; Laws 1986, LB 1027, § 103.

9-338. Pickle card or pickle card unit; restrictions on manufacturer; contraband. (1) No manufacturer or representative thereof, with knowledge or in circumstances under which he or she reasonably should have known, shall manufacture, possess, display, sell, or otherwise furnish to any person any pickle card or pickle card unit: (a) In which the winning tab or tabs have not been

completely and randomly distributed and mixed among all other tabs in a series; (b) In which the location or approximate location of any of the winning tab or tabs can be determined in advance of opening the tab or tabs in any manner or by any device, including, but not limited to, any pattern in the manufacture, assembly, or packaging of the tabs or pickle cards by the manufacturer, by any markings on the tabs or container, or by the use of a light; (c) Which offers both a chance for an instant prize and a possible chance to participate in a subsequent lottery activity, except that pickle card units (i) may utilize a seal card to award prizes or (ii) may utilize numbers drawn or selected in the conduct of bingo pursuant to the Nebraska Bingo Act to award prizes; or (d) Which does not conform in all other respects to the requirements of the Nebraska Pickle Card Lottery Act and any other specifications imposed by the department by rule and regulation as to the manufacture, assembly, or packaging of pickle cards.

Any such cards or units shall be contraband goods for purposes of section 9-350.

(2) No manufacturer or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pickle cards contains more winners than other portions of the series or that any series of pickle cards or pickle card units may be sold by the organization or its designated sales agent or pickle card operator in a particular manner that would give the seller any advantage in selling more of the pickle cards before having to pay out winners.

Source: Laws 1985, LB 408, § 24; R.S.Supp., 1985, § 9-186.02; Laws 1986, LB 1027, § 104; Laws 1996, LB 1277, § 7; Laws 2000, LB 658, § 3.

Effective date: July 13, 2000.

9-339. Department; examination of pickle cards. In addition to any other authority of the department and its authorized agents to conduct inspections, the department and its agents shall have the authority to select any pickle card or pickle card unit held by a distributor, licensed organization, sales agent, pickle card operator, or manufacturer and to examine the quality and integrity of such card or unit in any manner, including pulling all chances remaining thereon. If the pickle card or pickle card unit so inspected is thereby altered in any manner and no defect, alteration, deceptive condition, or other violation is discovered, the owner shall be reimbursed by the department for the cost of the pickle card or pickle card unit and the pickle card or pickle card unit shall become property of the department.

Source: Laws 1985, LB 408, § 22; R.S.Supp., 1985, § 9-186.04; Laws 1986, LB 1027, § 105.

9-340. Pickle card or pickle card units; restrictions; costs of approval. (1) No manufacturer shall sell or otherwise provide any pickle cards or pickle card units to any person in Nebraska except a licensed distributor or a federally recognized Indian tribe for use in a Class II gaming activity authorized by the federal Indian Gaming Regulatory Act. No distributor licensed in Nebraska shall purchase or otherwise obtain any pickle cards or pickle card units except from manufacturers licensed in Nebraska.

(2) No distributor shall sell or otherwise provide any pickle card units except to an organization licensed to conduct a lottery by the sale of pickle cards pursuant to the Nebraska Pickle Card Lottery Act or to a federally recognized Indian tribe for use in a Class II gaming activity authorized by the federal Indian Gaming Regulatory Act. No pickle cards shall be sold by a distributor except in the form of pickle card units. No distributor shall market or sell any pickle card unit for use in this state: (a) Which has not been approved and authorized by the department; (b) Which has a card or play count in excess of six thousand per pickle card unit; (c) Which offers less than sixty-five percent or more than eighty percent of the gross proceeds to be paid out in prizes; (d) which contains any pickle card or punch on a punchboard, the individual purchase price of which exceeds one dollar; (e) In which any individual pickle card awards a prize or prizes in excess of one thousand dollars; (f) Which may be used for any gift enterprise as defined in section 9-701; (g) Unless and until a stamp obtained from the department containing an identifying number has been permanently and conspicuously affixed upon the flare card supplied by the manufacturer for identification purposes. Once placed, such stamp shall not be removed or tampered with by any person. The state identification stamp shall be placed on each punchboard such that the complete number, together with the symbol appearing thereon, is plainly visible. State identification stamps shall be obtained only from the department and only by a licensed distributor for ten cents each. Such stamps shall be placed by the licensed distributor only on items sold or furnished to licensed organizations in this state. Such stamps shall not be transferred or furnished to any other person unless already placed upon a punchboard or pickle card unit; or (h) Without the information required in section 9-346.

(3) The department may require a manufacturer seeking approval of any pickle card unit to pay the actual costs incurred by the department in examining the unit. If required, the anticipated costs shall be paid in advance by the manufacturer. After completion of the examination, the department shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayment of actual costs.

Source: Laws 1983, LB 259, § 51; Laws 1984, LB 949, § 57; Laws 1985, LB 408, § 35; R.S.Supp., 1985, § 9-186; Laws 1986, LB 1027, § 106; Laws 1988, LB 1232, § 36; Laws 1989, LB 767, § 38; Laws 1994, LB 694, § 84; Laws 1995, LB 762, § 1.

Effective date: September 9, 1995.

9-340.01. Distributor; provide purchaser with invoice. Each distributor shall, in a manner prescribed by the department, provide each purchaser of a pickle card unit or punchboard with an invoice of sale. The invoice shall contain the purchaser's name and complete address and any other information the department deems necessary.

Source: Laws 1988, LB 1232, § 37.

9-340.02. Pickle card units; dispensing devices; payment; definite profit; how remitted; delivery; credit; limitations. (1) All pickle card units purchased by a licensed organization from a licensed distributor shall be paid for by a check drawn on the pickle card bank account of the licensed organization either in advance of or upon delivery of the pickle card units.

(2) A licensed pickle card operator shall remit the definite profit, less not more than thirty percent of the definite profit as allowed by subsection (4) of section 9-347, of all pickle card units received to the sponsoring licensed organization by check either in advance of or upon delivery of the pickle card units from the sales agent to the pickle card operator. Upon delivery of the pickle card units, the sales agent shall issue the pickle card operator a standard receipt prescribed by the department.

(3) Unless otherwise authorized by the department, pickle card units shall be delivered to a pickle card operator only by a sales agent's personal delivery or by delivery arranged by a sales agent through the mail or by a common carrier.

(4) No licensed organization conducting a lottery by the sale of pickle cards shall extend credit in any form, including, but not limited to, the extension of any credit with regard to the receipt of the definite profit, less not more than thirty percent of the definite profit as allowed by subsection (4) of section 9-347, of a pickle card unit from a pickle card operator upon delivery of a pickle card unit to the pickle card operator and the extension of any credit with regard to the sale or lease of any equipment or coin-operated or currency-operated pickle card dispensing device used in connection with a lottery by the sale of pickle cards.

(5) All payments for the purchase, lease, or rental of a coin-operated or currency-operated pickle card dispensing device by a licensed organization shall be made by a check drawn on the organization's pickle card checking account.

(6) All payments for the purchase, lease, or rental of a coin-operated or currency-operated pickle card dispensing device by a licensed pickle card operator from a licensed organization shall be made by a check drawn on the business checking account of the pickle card operator or a personal checking account of an owner, partner, or officer of the pickle card operator, either at the time of or before placement of the device or on or before the first day of the period of the lease, whichever comes first.

(7) All lease or rental agreements between a licensed organization and a licensed pickle card operator for coin-operated or currency-operated pickle card dispensing devices shall be subject to approval by the department.

Source: Laws 1988, LB 1232, § 38; Laws 1989, LB 767, § 39; Laws 1991, LB 427, § 38; Laws 1995, LB 344, § 16; Laws 2002, LB 545, § 33.

Operative date: July 20, 2002.

9-341. Licensed manufacturer; duty to keep records. Every licensed manufacturer shall keep and maintain a complete set of records which shall include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by the department, including the total number of pickle card units sold to any Nebraska-licensed distributor. Such records shall be available for inspection by the department. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

Source: Laws 1985, LB 408, § 20; R.S.Supp., 1985, § 9-143.04; Laws 1986, LB 1027, § 107.

9-342. Licensed organization; pickle cards; powers and duties; purchases; limitation. (1) Any organization licensed to conduct a lottery by the sale of pickle cards shall purchase units for such purposes from a distributor and shall use the net profit from the sale of the pickle cards for a lawful purpose.

(2) When any organization licensed to conduct a lottery by the sale of pickle cards purchases units from a distributor, such organization shall provide the distributor with a copy of the organization's license or other adequate identification indicating that such organization has a valid license issued pursuant to section 9-327.

(3) Only a person (a) licensed pursuant to section 9-327 as a utilization-of-funds member, (b) licensed pursuant to section 9-329 as a sales agent, (c) licensed pursuant to section 9-232.01 as a gaming manager, (d) designated as a bingo chairperson by an organization licensed to conduct bingo pursuant to the Nebraska Bingo Act, or (e) who serves as a manager for a licensed organization which is exempt under section 501(c)(8), (c)(10), or (c)(19) of the Internal Revenue Code shall order pickle card units from a distributor on behalf of the organization. Only a person licensed as a utilization-of-funds member shall purchase pickle card units from a distributor on behalf of the organization. No pickle card operator shall order or purchase any pickle card or pickle card unit from a distributor.

Source: Laws 1983, LB 259, § 42; Laws 1984, LB 949, § 48; R.S.Supp., 1984, § 9-177; Laws 1986, LB 1027, § 108; Laws 1988, LB 1232, § 40; Laws 1994, LB 694, § 85; Laws 1997, LB 248, § 15.

Operative date: October 1, 1997.

Cross Reference:

Nebraska Bingo Act, see section 9-201.

9-343. Distributor; records; reports. (1) A distributor shall maintain records of total sales of pickle card units and, within thirty days after the end of the calendar month or by the last day of the month following each monthly period, whichever comes first, shall report to the department, in a manner prescribed by the department, detailed information concerning each sale, which information shall include, but not be limited to, (a) the total number of units sold by such distributor, (b) the aggregate price for which such cards will be sold by the purchasing organization, and (c) any other information the department deems necessary.

(2) A distributor shall maintain a record of the serial number of each unit sold and the corresponding state identification stamp number assigned to each unit. Such information shall be made available to the department upon request.

Source: Laws 1983, LB 259, § 48; Laws 1984, LB 949, § 54; Laws 1985, LB 408, § 32; R.S.Supp., 1985, § 9-183; Laws 1986, LB 1027, § 109; Laws 1988, LB 1232, § 41; Laws 1997, LB 248, § 16.

Operative date: October 1, 1997.

9-344. Distributor; taxation; deficiencies. (1) Accompanying the monthly reports required in section 9-343, the distributor shall remit to the department a tax equal to 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 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. The department shall remit the tax to the State Treasurer for credit to the Charitable Gaming Operations Fund. 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.

(2) Unless otherwise provided in the Nebraska Pickle Card Lottery Act, no occupation tax on any proceeds derived from the conduct of a lottery by the sale of pickle cards shall be levied, assessed, or collected from any licensee under the act by any county, township, district, city, village, or other governmental subdivision or body having power to levy, assess, or collect such tax.

(3) For purposes of proper administration of the tax imposed by this section and to prevent evasion of the tax, it shall be presumed that each pickle card unit sold by a distributor or obtained from a manufacturer and not accounted for by a distributor is subject to the tax until the contrary is established. The burden of proving the contrary shall be upon the distributor.

Source: Laws 1983, LB 259, § 49; Laws 1984, LB 949, § 55; Laws 1985, LB 408, § 33; R.S.Supp., 1985, § 9-184; Laws 1986, LB 1027, § 110; Laws 1988, LB 1232, § 42; Laws 1989, LB 767, § 40; Laws 1990, LB 1055, § 5; Laws 1991, LB 427, § 39; Laws 1994, LB 694, § 86.

Operative date: October 1, 1994.

Cross Reference:

Nebraska Revenue Act of 1967, see section 77-2701.

9-345. Participation; age limitation. (1) No person under eighteen years of age shall play or participate in any way in any lottery by the sale of pickle cards.

(2) No person or licensee, or employee or agent thereof, shall knowingly permit an individual under eighteen years of age to play or participate in any way in any lottery by the sale of pickle cards conducted pursuant to the Nebraska Pickle Card Lottery Act.

Source: Laws 1986, LB 1027, § 111; Laws 1997, LB 248, § 17.

Operative date: October 1, 1997.

9-345.01. Conduct of lottery; location; special function. A licensed organization may conduct a lottery by the sale of pickle cards only at its designated premises, at its regularly scheduled bingo occasion and its limited period bingo conducted pursuant to the Nebraska Bingo Act, and at the premises of one or more pickle card operators.

A licensed organization may obtain an authorization from the department to sell its individual pickle cards at a festival, bazaar, picnic, carnival, or similar special function conducted by the licensed organization outside of the organization's designated premises one time per twelve-month period commencing October 1 of each year or such other date as the department may prescribe by rule and regulation not to exceed seven consecutive days if the special function is conducted within the county in which the licensed organization has its principal office and the pickle cards are sold only by volunteer members of the licensed organization. A licensed organization shall make written request to the department for such authorization at least ten days prior to the start of the special function.

Source: Laws 1988, LB 1232, § 28; Laws 1994, LB 694, § 87, Laws 2000, LB 1086, § 14.

Effective date: July 13, 2000.

Cross Reference:

Nebraska Bingo Act, see section 9-201.

9-345.02. Flare cards; punchboards; posting; identification. (1) Licensed organizations and pickle card operators selling individual pickle cards or punchboards shall conspicuously post the flare card for each pickle card unit in play at that location.

(2) Licensed organizations and pickle card operators shall identify each flare card or punchboard in a manner prescribed by the department indicating the name and state identification number of each nonprofit organization on behalf of which individual pickle cards and punches from punchboards are sold at such location.

Source: Laws 1988, LB 1232, § 29; Laws 1989, LB 767, § 41.

9-345.03. Pickle cards; dispensing device; registration; application; fee; decal; nontransferable; access; violations; penalties.

(1) Any person who places a coin-operated or currency-operated pickle card dispensing device in operation in this state without a current registration decal affixed permanently and conspicuously to the device shall be subject to an administrative penalty of thirty dollars for each violation. The department shall remit the proceeds from such penalties to the State Treasurer for credit to the Charitable Gaming Operations Fund.

(2) Registration of the device with the department shall be made by application to the department and shall be the responsibility of the licensed organization when such device is to be used in a licensed organization's designated premises or at the location of

its regularly scheduled bingo occasion or of the licensed pickle card operator when such device is to be used on the premises of the pickle card operator.

(3) Each application for registration shall include (a) the name and address of the licensed pickle card operator or licensed organization registering the device, (b) the state identification number of the licensed pickle card operator or licensed organization registering the device, (c) a detailed description of the physical appearance and operation of the device, and (d) such other information which the department deems necessary.

(4) A fee of fifty dollars shall be charged for each decal issued pursuant to this section. The department shall remit the proceeds from the fee to the State Treasurer for credit to the Charitable Gaming Operations Fund. All decals issued by the department pursuant to this section shall expire on December 31 of each year or such other date as the department may prescribe by rule and regulation and shall be renewed annually.

(5) The registration decal issued by the department pursuant to this section shall not be transferable.

(6) Upon request by the Tax Commissioner or his or her agents or employees, the licensed organization or pickle card operator responsible for registering the device shall provide the requesting individual immediate access to any pickle cards contained within such device.

(7) Any person violating any provision of this section shall be deemed guilty of a Class II misdemeanor. Each day on which any person engages in or conducts the business of operating any device subject to this section without having paid the penalty or registration as provided constitutes a separate offense.

Source: Laws 1988, LB 1232, § 43; Laws 1991, LB 427, § 40; Laws 1995, LB 344, § 17; Laws 2000, LB 1086, § 15.

Effective date: July 13, 2000.

9-345.04. Seal cards; authorized; requirements. A lottery by the sale of pickle cards may be conducted utilizing a seal card comprised of a board or placard that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, symbols, or any combination thereof. All rules governing the handling of prizes awarded in conjunction with seal cards shall be posted prominently in the area where such pickle card units are played.

Source: Laws 1996, LB 1277, § 1.

Effective date: July 19, 1996.

9-346. Determination of winner; pickle cards; requirements. (1) The winning cards, boards, or tickets in any lottery by the sale of pickle cards shall be determined by a comparison of those numbers, letters, symbols, or configurations, or combination thereof, which are revealed on the pickle cards, to a set of numbers, letters, symbols, or configurations, or combination thereof, which has been previously specified as a winning combination. Whenever the winning combinations do not comprise a statement of the cash prize won, the winning combinations shall be printed on every pickle card that is wider than one inch or longer than two and one-half inches. Pickle cards that are smaller than such dimensions shall have the winning combinations printed on a flare card that is publicly displayed at the point of sale of the pickle cards.

(2) The winning chances of any pickle card shall not be determined or otherwise known until after its purchase and only upon opening, pulling, detaching, breaking open, or otherwise removing the tab or tabs to clearly reveal or otherwise appropriately revealing the combination. The winning chances shall be determined by and based upon an element of chance.

(3) Any person possessing a winning pickle card shall receive the appropriate cash prize previously determined and specified for that winning combination.

(4) All pickle cards shall legibly bear on the outside of each pickle card the name of the licensed organization conducting the lottery by the sale of pickle cards and such organization's state identification number.

(5) Nothing in this section shall prohibit (a) punchboards which allow the person who purchases the last punch on the punchboard to receive a cash prize predetermined by the manufacturer as a result of purchasing the last punch, (b) pickle card units which utilize a seal card which allows a seal card winner to receive a cash prize predetermined by the manufacturer, (c) pickle card units which utilize a seal card as described in this section which allow the person who purchases the last pickle card of such a unit to receive a cash prize predetermined by the manufacturer as a result of purchasing the last pickle card, or (d) pickle card units which are designed by a manufacturer to utilize bingo numbers drawn during the conduct of bingo to determine a winning combination. Such pickle card units shall be sold by a licensed distributor only to an organization licensed to conduct a lottery by the sale of pickle cards which is also licensed to conduct bingo and shall be played only at the bingo premises of the licensed organization during a bingo occasion conducted pursuant to the Nebraska Bingo Act.

Source: Laws 1983, LB 259, § 5; Laws 1984, LB 949, § 11; Laws 1985, LB 408, § 4; R.S.Supp., 1985, § 9-140.01; Laws 1986, LB 1027, § 112; Laws 1988, LB 1232, § 44; Laws 1989, LB 767, § 42; Laws 1994, LB 694, § 88; Laws 1996, LB 1277, § 8; Laws 1997, LB 248, § 18; Laws 2000, LB 658, § 4.

Effective date: July 13, 2000.

9-347. Gross proceeds; definite profit; use; restrictions; allocation of expenses. (1) The gross proceeds of any lottery by the sale of pickle cards shall be used solely for lawful purposes, awarding of prizes, payment of the unit cost, any commission paid to a pickle card operator, allowable expenses, and allocations for bingo expenses as provided by subsection (5) of this section.

(2) Not less than sixty-five percent or more than eighty percent of the gross proceeds of any lottery by the sale of pickle cards shall be used for the awarding of prizes.

(3) Not more than twelve percent of the definite profit of a pickle card unit shall be used by the licensed organization to pay the allowable expenses of operating a lottery by the sale of pickle cards, except that license fees paid to the department to license the organization, each utilization-of-funds member, and any sales agent and pickle card dispensing device registration fees shall not be included in determining the twelve-percent limitation on expenses and no portion of such twelve percent shall be used to pay any expenses associated with the sale of pickle cards at a bingo occasion conducted pursuant to the Nebraska Bingo Act, and of such twelve percent not more than six percent of the definite profit may be used by the licensed organization for the payment of any commission, salary, or fee to a sales agent in connection with the marketing, sale, and delivery of a pickle card unit. When determining the twelve percent of definite profit that is permitted to pay the allowable expenses of operating a lottery by the sale of pickle cards, the definite profit from the sale of pickle cards at the organization's bingo occasions shall not be included.

(4) Not more than thirty percent of the definite profit of a pickle card unit shall be used by a licensed organization to pay a pickle card operator a commission, fee, or salary for selling individual pickle cards as opportunities for participation in a lottery by the sale of pickle cards on behalf of the licensed organization.

(5) An organization licensed to conduct bingo pursuant to the Nebraska Bingo Act may allocate a portion of the expenses associated with the conduct of its bingo occasions to its lottery by the sale of pickle cards conducted at such bingo occasions. Such allocation shall be based upon the percentage that pickle card gross proceeds derived from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds derived from such bingo occasions for the previous annual reporting period. An organization licensed to conduct bingo that has not been previously licensed shall determine such allocation based upon the percentage that pickle card gross proceeds derived from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds derived from such bingo occasions for the initial three consecutive calendar months of operation. The total amount of expenses that may be allocated to the organization's lottery by the sale of pickle cards shall be subject to the limitations on bingo expenses as provided for in the Nebraska Bingo Act with respect to the fourteen-percent expense limitation and the fair-market-value limitation on the purchase, rental, or lease of bingo equipment and the rental or lease of personal property or of a premises for the conduct of bingo. No expenses associated with the conduct of bingo may be paid directly from the pickle card checking account. A licensed organization which needs to allocate a portion of the expenses associated with the conduct of its bingo occasions to its lottery by the sale of pickle cards conducted at such bingo occasions to pay bingo expenses as provided by this section shall transfer funds from the pickle card checking account to the bingo checking account by a check drawn on the pickle card checking account or by electronic funds transfer.

Source: Laws 1986, LB 1027, § 113; Laws 1988, LB 1232, § 45; Laws 1989, LB 767, § 43; Laws 1994, LB 694, § 89; Laws 1995, LB 344, § 18; Laws 2002, LB 545, § 34; Laws 2009, LB 286 § 2.

Operative date: August 30, 2009.

9-347.01. Definite profit; distribution; net profit; use. (1) For each type of pickle card unit marketed in this state, the department shall determine the following: (a) When a licensed organization sells pickle cards through pickle card operators, the portion of the definite profit from that pickle card unit which shall go to the licensed organization, such amount to be not less than seventy percent of the definite profit from such pickle card unit; (b) the maximum amount of the definite profit from the sale of a pickle card unit that a licensed organization may pay a pickle card operator as a commission, fee, or salary to sell its pickle cards, such amount not to exceed thirty percent of the definite profit from such pickle card unit; (c) the portion of the definite profit from the sale of a pickle card unit which may be expended by a licensed organization for allowable expenses, such amount not to exceed twelve percent of the definite profit from such pickle card unit; and (d) the portion of the definite profit from the sale of a pickle card unit which may be utilized by a licensed organization for payment of the organization's sales agent, such amount to be a portion of the allowable expenses and not to exceed six percent of the definite profit from such pickle card unit.

(2) The licensed organization's net profit from the sale of a pickle card unit shall be used exclusively for a lawful purpose. A licensed organization shall not donate or promise to donate its net profit or any portion of the net profit to a recipient outside of its organization as an inducement for or in exchange for (a) a payment, gift, or other thing of value from the recipient to any person, organization, or corporation, including, but not limited to, the licensed organization or any of its members, employees, or agents, or (b) a pickle card operator's agreement to sell pickle cards on behalf of the licensed organization.

Source: Laws 1988, LB 1232, § 46; Laws 1989, LB 767, § 44; Laws 1995, LB 344, § 19; Laws 2002, LB 545, § 35; Laws 2009, LB 286 § 3.

Operative date: August 30, 2009.

9-348. Segregation of definite profit; manner of payment; records; requirements. (1) The definite profit, less not more than thirty percent of the definite profit as allowed by subsection (4) of section 9-347, of any lottery by the sale of pickle cards and all amounts received by any licensed organization from the sale, lease, or rental of coin-operated or currency-operated pickle card dispensing devices shall be segregated from other revenue of any licensed organization conducting the lottery and placed in a separate checking account. All lawful purpose donations and expenses relating to the licensed organization's lottery by the sale of pickle cards, including the allowable expenses, any license fees paid to the department to license the organization, each

utilization-of-funds member, and any sales agent, coin-operated or currency-operated pickle card dispensing device registration fees, and the unit cost but excluding the payment of prizes for winning pickle cards, shall be paid by check from such account and shall be made payable to the ultimate use of such lawful purpose donations or expenses.

(2) Separate records shall be maintained by any licensed organization conducting a lottery by the sale of pickle cards. Each nonprofit organization conducting a lottery by the sale of pickle cards shall keep a record of all locations or persons who are paid to sell pickle cards. Records and lists required by the Nebraska Pickle Card Lottery Act shall be preserved for at least three years. Any law enforcement agency or other agency of government shall have the authority to investigate the records relating to lotteries by the sale of pickle cards and gross proceeds from such lotteries at any time. Organizations shall, upon proper written request, deliver all such records to the department, law enforcement agency, or other agency of government for investigation.

Source: Laws 1983, LB 259, § 46; Laws 1984, LB 949, § 52; R.S.Supp., 1984, § 9-181; Laws 1986, LB 1027, § 114; Laws 1988, LB 1232, § 47; Laws 1989, LB 767, § 45; Laws 1994, LB 694, § 90; Laws 1995, LB 344, § 20.

Effective date: September 9, 1995.

9-348.01. Lottery by the sale of pickle cards; sources of funding; payments. (1) A lottery by the sale of pickle cards shall fund itself after its first year of existence and shall not receive money from any other source, including the operation of other charitable gaming activities, for the payment of prizes, unit cost, allowable expenses, any commission paid to a pickle card operator, lawful purpose donations, or any other expense associated with the operation of the lottery by the sale of pickle cards except as provided in subsection (2) of this section.

(2) A licensed organization establishing a lottery by the sale of pickle cards may finance such lottery with money from the general fund of the licensed organization during the first year of operation of the lottery by the sale of pickle cards. General fund money used to finance a lottery by the sale of pickle cards may be repaid from funds received by the lottery by the sale of pickle cards.

(3) A licensed organization may commingle funds received from the sale of pickle cards with any general operating funds of the licensed organization by means of a check drawn on the pickle card checking account or by electronic funds transfer from that account, but the burden of proof shall be on the licensed organization to demonstrate that such commingled funds are not used to make any payments associated with the operation of the lottery by the sale of pickle cards and are used for a lawful purpose.

Source: Laws 1988, LB 1232, § 49; Laws 1989, LB 767, § 46; Laws 1994, LB 694, § 91.

Operative date: October 1, 1994.

9-349. Lottery by the sale of pickle cards; reports. (1) A licensed organization conducting a lottery by the sale of pickle cards shall report annually to the department, on a form prescribed by the department, a complete and accurate accounting of its gross proceeds from the lottery by the sale of pickle cards. The annual report shall demonstrate that the organization's definite profit from pickle card sales has been retained in the organization's pickle card checking account or expended solely for allowable expenses, unit costs, any pickle card operator commissions, lawful purpose donations, any license fees paid to the department to license the organization, each utilization-of-funds member, and any sales agent, coin-operated or currency-operated pickle card dispensing device registration fees, or any bingo expenses allocated to the sale of pickle cards as provided for in section 9-347.

(2) The annual report shall cover the organization's lottery by the sale of pickle cards activities from July 1 through June 30 of each year or such other period as the department may prescribe by rule and regulation. Such report shall be submitted to the department on or before August 15 of each year or such other date as the department may prescribe by rule and regulation.

(3) A copy of the report shall be submitted to the organization's membership.

(4) Upon dissolution of a licensed organization or if a previously licensed organization does not renew its license to conduct a lottery by the sale of pickle cards, its license renewal application is denied, or its license is canceled or revoked, all remaining profits derived from the conduct of the lottery by the sale of pickle cards shall be utilized for a lawful purpose and shall not be distributed to any private individual or shareholder. A complete and accurate report of the organization's pickle card activity shall be filed with the department, on a form prescribed by the department, no later than forty-five days after the date the organization is dissolved or no later than forty-five days after the expiration date of the license or the effective date of the license renewal application denial or license cancellation or revocation. The report shall cover the period from the end of the organization's most recent annual report filed through the date the organization is dissolved or the date the license renewal application has been denied or the license has been canceled or revoked or has otherwise expired. The organization shall include with the report a plan for the disbursement of any remaining profits which shall be subject to approval by the department. Such plan shall identify the specific purposes for which the remaining profits will be utilized.

(5) In addition to the reports required by subsections (1) and (4) of this section, the department may prescribe by rule and regulation the filing of a pickle card revenue status report by August 15 of each year or such other date as the department may prescribe by rule and regulation, on a form prescribed by the department, listing all disbursements of pickle card revenue until all such revenue has been expended either for allowable expenses or for a lawful purpose.

Source: Laws 1983, LB 259, § 47; Laws 1984, LB 949, § 53; R.S.Supp., 1984, § 9-182; Laws 1986, LB 1027, § 115; Laws 1988, LB 1232, § 48; Laws 1994, LB 694, § 92; Laws 1995, LB 344, § 21; Laws 2002, LB 545, § 36.

Operative date: July 20, 2002.

9-350. Tax Commissioner; power to seize contraband; effect. (1) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, the following contraband goods found any place in this state: (a) Any pickle cards and pickle card units declared to be contraband goods in section 9-338; (b) Any pickle cards that are not properly printed as required in section 9-346 or on which the tax has not been paid, except for pickle cards in the possession of a licensed distributor or licensed manufacturer; (c) Any pickle cards or pickle card units purchased by any licensed organization from any source other than a licensed distributor; (d) Any pickle cards or pickle card units that are being sold without all of the proper licenses; (e) Any pickle card units or pickle cards that have been sold in violation of the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated pursuant to such act; (f) Any pickle cards or pickle card units in the possession of any licensee whose license has been revoked, canceled, or suspended or any pickle cards or pickle card units in the possession of any former licensee whose license has expired; or (g) Any coin-operated or currency-operated pickle card dispensing device which contains any pickle cards deemed to be contraband goods pursuant to this subsection or any such device which does not have permanently and conspicuously affixed to it a current registration decal required by section 9-345.03.

(2) The Tax Commissioner may, upon satisfactory proof, direct return of any confiscated pickle cards or pickle card units when he or she has reason to believe that the entity from whom the pickle cards or pickle card units were confiscated has not willfully or intentionally evaded any tax or failed to comply with the Nebraska Pickle Card Lottery Act. Upon receipt of an affidavit of ownership, the Tax Commissioner shall relinquish possession of a seized coin-operated or currency-operated pickle card dispensing device to the lawful owners of the device if the device is not needed as evidence by the department, any county attorney, or the Attorney General at an administrative or judicial hearing, if contraband pickle cards have been removed from the device, and in the event the device was seized due to a violation of subsection (2) of section 9-345.03, if the entity who was utilizing the device has applied for and has received a current registration decal for the seized device.

(3) The Tax Commissioner may, upon finding that an entity in possession of contraband goods has willfully or intentionally evaded any tax or failed to comply with the act, confiscate such goods. Any pickle cards or pickle card units confiscated shall be destroyed.

(4) The seizure and destruction of coin-operated or currency-operated pickle card dispensing devices, pickle cards, or pickle card units shall not relieve any person from a fine, imprisonment, or other penalty for violation of the act.

(5) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, may seal any pickle cards, pickle card units, or coin-operated or currency-operated pickle card dispensing devices deemed to be contraband goods pursuant to this section. Such seal shall not be broken until authorized by the Tax Commissioner or his or her agents or employees. If the seal on a coin-operated or currency-operated pickle card dispensing device is broken prior to payment of the penalty and registration of the device required under section 9-345.03, the device shall be subject to forfeiture and sale by the Tax Commissioner.

(6) The Tax Commissioner or his or her agents or employees, when directed to do so by the Tax Commissioner, or any peace officer of this state shall not be responsible for negligence in any court for the sealing, seizure, or confiscation of any coin-operated or currency-operated pickle card dispensing device, pickle card, or pickle card unit pursuant to this section.

(7) Possession of pickle cards or pickle card units which are deemed to be contraband goods pursuant to this section shall be a violation of the Nebraska Pickle Card Lottery Act.

Source: Laws 1985, LB 408, § 29; R.S.Supp., 1985, § 9-187.02; Laws, 1986, LB 1027, § 116; Laws 1991, LB 427, § 41; Laws 1995, LB 344, § 22; Laws 1997, LB 248, § 19.

Operative date: October 1, 1997.

9-351. Unauthorized sale or possession of pickle cards; penalty. (1) No person or organization other than those qualifying under section 9-326 and licensed pursuant to section 9-327 shall be permitted to conduct a lottery by the sale of pickle cards in this state.

(2) No person other than a licensed distributor or manufacturer shall possess pickle cards that are not properly printed with the information required in section 9-346.

(3) Any person who violates this section shall be guilty of a Class I misdemeanor.

Source: Laws 1983, LB 259, § 44; Laws 1984, LB 949, § 51; Laws 1985, LB 408, § 31; R.S.Supp., 1985, § 9-179; Laws 1986, LB 1027, § 117.

9-352. Violations; penalties; enforcement; venue. (1) Except when another penalty is specifically provided, any person or licensee, or employee or agent thereof, who violates any provision of the Nebraska Pickle Card Lottery Act, or who causes, aids, abets, or conspires with another to cause any person or licensee or any employee or agent thereof to violate the act, shall be guilty of a Class I misdemeanor for the first offense and a Class IV felony for any second or subsequent violation. Any licensee guilty of violating any provision of the act more than once in a twelve-month period may have its license canceled or revoked. Such matters may also be referred to any other state licensing agencies for appropriate action.

(2) Each of the following violations of the Nebraska Pickle Card Lottery Act shall be a Class IV felony: (a) Giving, providing, or offering to give or provide, directly or indirectly, to any public official, employee, or agent of this state, or any agencies or political subdivisions of this state, any compensation or reward or share of the money for property paid or received through gambling activities regulated under Chapter 9 in consideration for obtaining any license, authorization, permission, or privilege to participate in any gaming operations except as authorized under Chapter 9 or any rules and regulations adopted and promulgated

pursuant to such chapter; (b) Making or receiving payment of a portion of the purchase price of pickle cards by a seller of pickle cards to a buyer of pickle cards to induce the purchase of pickle cards or to improperly influence future purchases of pickle cards; (c) Using bogus, counterfeit, or nonopaque pickle cards, pull tabs, break opens, punchboards, jar tickets, or any other similar card, board, or ticket or substituting or using any pickle cards, pull tabs, or jar tickets that have been marked or tampered with; (d) Knowingly filing a false report under the Nebraska Pickle Card Lottery Act; (e) Knowingly falsifying or making any false entry in any books or records with respect to any transaction connected with the conduct of a lottery by the sale of pickle cards; or (f) Knowingly selling or distributing or knowingly receiving with intent to sell or distribute pickle cards or pickle card units without first obtaining a license in accordance with the Nebraska Pickle Card Lottery Act pursuant to section 9-329, 9-329.03, 9-330, or 9-332.

(3) Intentionally employing or possessing any device to facilitate cheating in any lottery by the sale of pickle cards or use of any fraudulent scheme or technique in connection with any lottery by the sale of pickle cards is a violation of the Nebraska Pickle Card Lottery Act. The offense is a: (a) Class II misdemeanor when the amount gained or intended to be gained through the use of such items, schemes, or techniques is less than five hundred dollars; (b) Class I misdemeanor when the amount gained or intended to be gained through the use of such items, schemes, or techniques is five hundred dollars or more but less than one thousand five hundred dollars; and (c) Class IV felony when the amount gained or intended to be gained through the use of such items, schemes, or techniques is one thousand five hundred dollars or more.

(4) In all proceedings initiated in any court or otherwise under the act, it shall be the duty of the Attorney General and appropriate county attorney to prosecute and defend all such proceedings.

(5) The failure to do any act required by or under the Nebraska Pickle Card Lottery Act shall be deemed an act in part in the principal office of the department. Any prosecution under such act may be conducted in any county where the defendant resides or has a place of business or in any county in which any violation occurred.

(6) In the enforcement and investigation of any offense committed under the act, the department may call to its aid any sheriff, deputy sheriff, or other peace officer in the state.

Source: Laws 1986, LB 1027, § 118; Laws 1987, LB 523, § 2; Laws 1988, LB 1232, § 50; Laws 1995, LB 344, § 23; Laws 1997, LB 248, § 20; Laws 2015, LB 605, § 2.

Effective date: August 30, 2015.

9-353. Violations; standing to sue. Any person in this state, including any law enforcement official, who has cause to believe that (1) any licensed organization, (2) any employee or agent of such licensed organization; (3) any person acting in concert with such licensed organization, or (4) any person in connection with a lottery by the sale of pickle cards has engaged in or is engaging in any conduct in violation of the Nebraska Pickle Card Lottery Act or has aided or is aiding another in any conduct in violation of the act may commence a civil action in any district court of this state.

Source: Laws 1986, LB 1027, § 119.

9-354. Civil action; relief permitted. In any civil action commenced pursuant to section 9-353, a court may allow:

(1) A temporary restraining order or injunction, with or without a bond as the court may direct, prohibiting a part to the action from continuing or engaging in such conduct, aiding in such conduct, or doing any act in furtherance of such conduct;

(2) A declaration that the conduct by a licensed organization or employee or agent of a licensed organization, which is a party to the action, constitutes a violation of the Nebraska Pickle Card Lottery Act and a determination of the number and times of violations for certification to the department for appropriate license revocation purposes;

(3) A permanent injunction under principles of equity and on reasonable terms;

(4) An accounting of the profits, earnings, or gains resulting directly and indirectly from such violations, with restitution or a distribution of such profits, earnings, or gains to all licensed organizations existing at the time of such violations which apply to the court and show that they suffered monetary losses by reason of such violations and with distribution of any remaining profits, earnings, or gains to the state; and

(5) Reasonable attorney's fees and court costs.

Source: Laws 1986, LB 1027, § 120; Laws 1991, LB 427, § 42.

9-355. Civil procedure statutes; applicability. Proceedings under section 9-353 shall be subject to and governed by the district court civil procedure statutes. Issues properly raised shall be tried and determined as in other civil actions in equity. All orders, judgments, and decrees rendered may be reviewed as other orders, judgments, and decrees.

Source: Laws 1986, LB 1027, § 121.

9-356. Returns, reports, and records; disclosure; limitations; violation; penalty. (1) Except in accordance with a proper judicial order or as otherwise provided by this section or other law, it shall be a Class I misdemeanor for the Tax Commissioner or any employee or agent of the Tax Commissioner to make known, in any manner whatsoever, the contents of any tax return or any reports or records submitted by a licensed distributor or manufacturer or the contents of any personal history reports submitted by any licensee or license applicant to the department pursuant to the Nebraska Pickle Card Lottery Act and any rules and regulations adopted and promulgated pursuant to such act.

(2) Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, licensee, or his or her duly authorized representative or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, a certified copy of any tax return or report or record, (b) the publication of statistics so classified as to prevent the identification of particular tax returns or reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of tax returns or reports or records submitted by a licensed distributor or manufacturer when information on the tax returns or reports or records is considered by the Attorney General, county attorney, or other legal representative to be relevant to any action or proceeding instituted by the taxpayer or licensee or against whom an action or proceeding is being considered or has been commenced by any state agency or county, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner for the collection of delinquent taxes under the Nebraska Pickle Card Lottery Act, (f) the publication or disclosure of final administrative opinions and orders made by the Tax Commissioner in the adjudication of license denials, suspensions, cancellations, or revocations or the levying of fines, (g) the release of any application, without the contents of any submitted personal history report or social security number, filed with the department to obtain a license to conduct activities under the act, which shall be deemed a public record, (h) the release of any report filed pursuant to section 9-349 or any other report filed by a licensed organization, sales agent, or pickle card operator pursuant to the act, which shall be deemed a public record, or (i) the notification of an applicant, a licensee, or a licensee's duly authorized representative of the existence of and the grounds for any administrative action to deny the license application of, to revoke, cancel, or suspend the license of, or to levy an administrative fine upon any agent or employee of the applicant, the licensee, or any other person upon whom the applicant or licensee relies to conduct activities authorized by the act.

(3) Nothing in this section shall prohibit the Tax Commissioner or any employee or agent of the Tax Commissioner from making known the names of persons, firms, or corporations licensed to conduct activities under the act, the locations at which such activities are conducted by the license holders, or the dates on which such licenses were issued.

(4) Notwithstanding subsection (1) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect a tax return or reports or records submitted by a licensed distributor or manufacturer pursuant to the act when information on the returns or reports or records is relevant to any action or proceeding instituted or being considered by the United State Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(5) Notwithstanding subsection (1) of this section, the Tax Commissioner may permit other tax officials of this state to inspect a tax return or reports or records submitted pursuant to the act, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

Source: Laws 1988, LB 1232, § 51; Laws 1991, LB 427, § 43; Laws 1994, LB 694, § 93; Laws 1995, LB 344, § 24, Laws 2007, LB 638, § 12.

Effective date: September 1, 2007.