

AMENDMENTS TO LB 524

Introduced by General Affairs

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 9-701, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 9-701 (1) For purposes of this section:

6 (a) Financial institution has the same meaning as in
7 section 8-101;

8 ~~(a)~~ (b) Gift enterprise means a contest, game of chance,
9 savings promotion raffle, or game promotion which is conducted
10 within the state or throughout the state and other states in
11 connection with the sale of consumer or trade products or services
12 solely as business promotions and in which the elements of chance
13 and prize are present. Gift enterprise does not include any scheme
14 using the game of bingo or keno; any non-telecommunication-related,
15 player-activated electronic or electromechanical facsimile of any
16 game of chance; or any slot machine of any kind. A gift enterprise
17 shall not utilize pickle cards as defined in section 9-315.
18 Promotional game tickets may be utilized subject to the following:

19 (i) The tickets utilized shall be manufactured or
20 imprinted with the name of the operator on each ticket;

21 (ii) The tickets utilized shall not be manufactured with
22 a cost per play printed on them; and

23 (iii) The tickets utilized shall not be substantially

1 similar to any type of pickle card approved by the Department of
2 Revenue pursuant to section 9-332.01; ~~and~~

3 ~~(b)~~ (c) Operator means any person, firm, corporation,
4 association, governmental entity, or agent or employee thereof who
5 promotes, operates, or conducts a gift enterprise. Operator does
6 not include any nonprofit organization or any agent or employee
7 thereof, except that operator includes any ~~credit union~~ financial
8 institution chartered under state or federal law or any agent
9 or employee thereof who promotes, operates, or conducts a gift
10 enterprise; ~~and-~~

11 (d) Savings promotion raffle means a contest conducted by
12 a financial institution chartered under state or federal law or any
13 agent or employee thereof in which a chance of winning a designated
14 prize is obtained by the deposit of a specified amount of money in
15 a savings account or other savings program if each entry has an
16 equal chance of winning.

17 (2) Any operator may conduct a gift enterprise within
18 this state in accordance with this section.

19 (3) An operator shall not:

20 (a) Design, engage in, promote, or conduct a gift
21 enterprise in connection with the promotion or sale of consumer
22 products or services in which the winner may be unfairly
23 predetermined or the game may be manipulated or rigged;

24 (b) Arbitrarily remove, disqualify, disallow, or reject
25 any entry;

26 (c) Fail to award prizes offered;

27 (d) Print, publish, or circulate literature or

1 advertising material used in connection with such gift enterprise
2 which is false, deceptive, or misleading; or

3 (e) Require an entry fee, a payment or promise of payment
4 of any valuable consideration, or any other consideration as a
5 condition of entering a gift enterprise or winning a prize from the
6 gift enterprise, except that a contest, game of chance, or business
7 promotion may require, as a condition of participation, evidence
8 of the purchase of a product or service as long as the purchase
9 price charged for such product or service is not greater than it
10 would have been without the contest, game of chance, or business
11 promotion. For purposes of this section, consideration shall not
12 include (i) filling out an entry blank, (ii) entering by mail
13 with the purchase of postage at a cost no greater than the cost
14 of postage for a first-class letter weighing one ounce or less,
15 ~~or~~ (iii) entering by a telephone call to the operator of or for
16 the gift enterprise at a cost no greater than the cost of postage
17 for a first-class letter weighing one ounce or less, or (iv) the
18 deposit of money in a savings account or other savings program,
19 regardless of the interest rate earned by such account or program.
20 When the only method of entry is by telephone, the cost to the
21 entrant of the telephone call shall not exceed the cost of postage
22 for a first-class letter weighing one ounce or less for any reason,
23 including (A) whether any communication occurred during the call
24 which was not related to the gift enterprise or (B) the fact that
25 the cost of the call to the operator was greater than the cost to
26 the entrant allowed under this section.

27 (4) An operator shall disclose to participants all terms

1 and conditions of a gift enterprise.

2 ~~(4)(a)~~ (5)(a) The Department of Revenue may adopt and
3 promulgate rules and regulations necessary to carry out the
4 operation of gift enterprises.

5 (b) Whenever the department has reason to believe that a
6 gift enterprise is being operated in violation of this section or
7 the department's rules and regulations, it may bring an action in
8 the district court of Lancaster County in the name of and on behalf
9 of the people of the State of Nebraska against the operator of
10 the gift enterprise to enjoin the continued operation of such gift
11 enterprise anywhere in the state.

12 ~~(5)(a)~~ (6)(a) Any person, firm, corporation, association,
13 or agent or employee thereof who engages in any unlawful acts or
14 practices pursuant to this section or violates any of the rules and
15 regulations promulgated pursuant to this section shall be guilty of
16 a Class II misdemeanor.

17 (b) Any person, firm, corporation, association, or agent
18 or employee thereof who violates any provision of this section
19 or any of the rules and regulations promulgated pursuant to this
20 section shall be liable to pay a civil penalty of not more than
21 one thousand dollars imposed by the district court of Lancaster
22 County for each such violation which shall ~~accrue to the permanent~~
23 ~~school fund.~~ be remitted to the State Treasurer for distribution
24 in accordance with Article VII, section 5, of the Constitution
25 of Nebraska. Each day of continued violation shall constitute a
26 separate offense or violation for purposes of this section.

27 (7) A financial institution may limit the number of

1 chances that a participant in a savings promotion raffle may obtain
2 for making the required deposits, but shall not limit the number of
3 deposits.

4 ~~(6)~~ (8) In all proceedings initiated in any court or
5 otherwise under this section, the Attorney General or appropriate
6 county attorney shall prosecute and defend all such proceedings.

7 ~~(7)~~ (9) This section shall not apply to any activity
8 authorized and regulated under the Nebraska Bingo Act, the Nebraska
9 County and City Lottery Act, the Nebraska Lottery and Raffle Act,
10 the Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery
11 and Raffle Act.

12 Sec. 2. Original section 9-701, Reissue Revised Statutes
13 of Nebraska, is repealed.