

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 722**

Introduced by Albrecht, 17; Clements, 2.

Read first time January 23, 2019

Committee: General Affairs

1 A BILL FOR AN ACT relating to the Nebraska County and City Lottery Act;  
2 to amend sections 9-607 and 9-649, Reissue Revised Statutes of  
3 Nebraska, and sections 9-601 and 9-603, Revised Statutes Cumulative  
4 Supplement, 2018; to define and redefine terms; to authorize seizure  
5 of gray devices; to provide a penalty; to harmonize provisions; and  
6 to repeal the original sections.

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

1 Section 1. Section 9-601, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 9-601 Sections 9-601 to 9-653 and section 3 of this act shall be  
4 known and may be cited as the Nebraska County and City Lottery Act.

5 Sec. 2. Section 9-603, Revised Statutes Cumulative Supplement, 2018,  
6 is amended to read:

7 9-603 For purposes of the Nebraska County and City Lottery Act, the  
8 definitions found in sections 9-603.02 to 9-618 and section 3 of this act  
9 shall be used.

10 Sec. 3. (1) Gray device means any electronic gaming device,  
11 electro-mechanical gaming device, or video gaming device that:

12 (a) Accepts or requires currency, credit, coins, tokens, or other  
13 value in exchange for play; and

14 (b) Directly or indirectly awards a monetary prize or credits,  
15 tickets, vouchers, or other items redeemable for a monetary prize in  
16 conjunction with the play of the device;

17 (2) Gray device also includes any electronic, electro-mechanical, or  
18 video device that:

19 (a) Accepts or requires currency, coins, tokens, or other value in  
20 exchange for play;

21 (b) Plays, emulates, or simulates:

22 (i) Slot machines, coin pushers, roulette, craps, dice games, or  
23 wheel of fortune, including any game similar in form or content, or any  
24 other type of game ordinarily played in a casino;

25 (ii) Any card game including, but not limited to, poker, blackjack,  
26 twenty-one, faro, monte, or baccarat, or any variant of the same; or

27 (iii) Keno, pickle cards, or bingo, or any game or activity similar  
28 in form or content, unless such device is operated in accordance with the  
29 Nebraska Bingo Act, Nebraska County and City Lottery Act, or Nebraska  
30 Pickle Card Lottery Act; and

31 (c) Directly or indirectly awards anything of value, except for an

1 immediate, unrecorded, and nonexchangeable right of replay.

2 (3) A monetary prize includes:

3 (a) Cash;

4 (b) Checks;

5 (c) Gift cards and gift certificates; and

6 (d) Any credit, ticket, voucher, or other item that:

7 (i) Is redeemable for merchandise; and

8 (ii) Has a value denominated by reference to an amount of currency.

9 (4) Slot machine means any device incorporating spinning reels that  
10 display numbers, symbols, or other indicia, or any video simulation of  
11 the same, and in which winning outcomes are determined by the alignment  
12 of such numbers, symbols, or other indicia, including any alignment  
13 determined by chance or any alignment owing in whole or in part to any  
14 physical act or interaction of the player.

15 (5) A device is no less a gray device if a player exercises any  
16 degree of skill.

17 (6) Gray device does not include:

18 (a) Any device commonly known as a smartphone or personal computer,  
19 including any device designed and marketed solely for home entertainment,  
20 when used privately and not for a fee;

21 (b) Any automatic teller machine operated in accordance with the  
22 Nebraska Banking Act;

23 (c) Any device used in any bingo, lottery by the sale of pickle  
24 cards, or other lottery, raffle, or gift enterprise conducted in  
25 accordance with the Nebraska Bingo Act, Nebraska County and City Lottery  
26 Act, Nebraska Lottery and Raffle Act, Nebraska Pickle Card Lottery Act,  
27 Nebraska Small Lottery and Raffle Act, or State Lottery Act or section  
28 9-701;

29 (d) Any device used for a prize contest as defined in section  
30 28-1101; or

31 (e) Any device specifically authorized by the laws of this state.

1           Sec. 4. Section 9-607, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           9-607 (1) Lottery shall mean a gambling scheme in which:

4           (a) The players pay or agree to pay something of value for an  
5 opportunity to win;

6           (b) Winning opportunities are represented by tickets;

7           (c) Winners are solely determined by one of the following two  
8 methods:

9           (i) By a random drawing of tickets differentiated by sequential  
10 enumeration from a receptacle by hand whereby each ticket has an equal  
11 chance of being chosen in the drawing; or

12           (ii) By use of a game known as keno in which a player selects up to  
13 twenty numbers from a total of eighty numbers on a paper ticket and a  
14 computer, other electronic selection device, or electrically operated  
15 blower machine which is not player-activated randomly selects up to  
16 twenty numbers from the same pool of eighty numbers and the winning  
17 players are determined by the correct matching of the numbers on the  
18 paper ticket selected by the players with the numbers randomly selected  
19 by the computer, other electronic selection device, or electrically  
20 operated blower machine, except that (A) no keno game shall permit or  
21 require player activation of lottery equipment and (B) the random  
22 selection of numbers by the computer, other electronic selection device,  
23 or electrically operated blower machine shall not occur within five  
24 minutes of the completion of the previous selection of random numbers;  
25 and

26           (d) The holders of the winning paper tickets are to receive cash or  
27 prizes redeemable for cash. Selection of a winner or winners shall be  
28 predicated solely on chance.

29           (2) Lottery shall not include:

30           (a) Any gambling scheme which uses any mechanical gaming device,  
31 computer gaming device, electronic gaming device, or video gaming device

1 which has the capability of awarding something of value, free games  
2 redeemable for something of value, or tickets or stubs redeemable for  
3 something of value;

4 (b) Any activity authorized or regulated under the Nebraska Bingo  
5 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card  
6 Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery  
7 Act, section 9-701, or Chapter 2, article 12; ~~or~~

8 (c) Any gambling scheme which uses a gray device; or

9 (d) ~~(e)~~ Any activity prohibited under Chapter 28, article 11.

10 (3) Notwithstanding the requirement in subdivision (1)(c)(ii) of  
11 this section that a player select up to twenty numbers, a player may  
12 select more than twenty numbers on a paper ticket when a top or bottom,  
13 left or right, edge, or way ticket is played. For a top or bottom ticket,  
14 the player shall select all numbers from one through forty or all numbers  
15 from forty-one through eighty. For a left or right ticket, the player  
16 shall select all numbers ending in one through five or all numbers ending  
17 in six through zero. For an edge ticket, the player shall select all of  
18 the numbers comprising the outside edge of the ticket. For a way ticket,  
19 the player shall select a combination of groups of numbers in multiple  
20 ways on a single ticket.

21 (4) A county, city, or village conducting a keno lottery shall  
22 designate the method of winning number selection to be used in the  
23 lottery and submit such designation in writing to the department prior to  
24 conducting a keno lottery. Only those methods of winning number selection  
25 described in subdivision (1)(c)(ii) of this section shall be permitted,  
26 and the method of winning number selection initially utilized may only be  
27 changed once during that business day as set forth in the designation. A  
28 county, city, or village shall not change the method or methods of  
29 winning number selection filed with the department or allow it to be  
30 changed once such initial designation has been made unless (a) otherwise  
31 authorized in writing by the department based upon a written request from

1 the county, city, or village or (b) an emergency arises in which case a  
2 ball draw method of number selection would be switched to a number  
3 selection by a random number generator. An emergency situation shall be  
4 reported by the county, city, or village to the department within twenty-  
5 four hours of its occurrence.

6 Sec. 5. Section 9-649, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 9-649 (1) The Tax Commissioner or his or her agents or employees, at  
9 the direction of the Tax Commissioner, or any peace officer of this state  
10 may seize, without a warrant, the following contraband goods found any  
11 place in this state: (a) Any lottery equipment or supplies which do not  
12 conform in all respects to the requirements of the Nebraska County and  
13 City Lottery Act and any other specifications imposed by the department  
14 by rule and regulation; (b) any lottery equipment or supplies that are  
15 being sold without the proper license; (c) any lottery equipment or  
16 supplies that have been sold in violation of the act or any rule or  
17 regulation adopted and promulgated pursuant to the act; (d) any gray  
18 device; or (e) ~~(d)~~ any lottery equipment or supplies used in connection  
19 with any lottery that has been or is being conducted in violation of the  
20 act or any rule or regulation adopted and promulgated pursuant to the  
21 act.

22 (2) The Tax Commissioner may, upon satisfactory proof, direct the  
23 return of any seized lottery equipment or supplies when he or she has  
24 reason to believe that the owner has not willfully or intentionally  
25 failed to comply with the act.

26 (3) The Tax Commissioner may, upon finding that an owner of  
27 contraband goods has willfully or intentionally failed to comply with the  
28 act, confiscate such goods. Any lottery equipment or supplies confiscated  
29 shall be destroyed.

30 (4) The seizure of contraband goods under this section shall not  
31 relieve any person from a fine, imprisonment, or other penalty for

1 violation of the act.

2 (5) The Tax Commissioner or his or her agents or employees, when  
3 directed to do so by the Tax Commissioner, or any peace officer of this  
4 state shall not be responsible for negligence in any court for the  
5 seizure or confiscation of any lottery equipment or supplies pursuant to  
6 this section.

7 (6) In addition to seizure under this section, any person placing in  
8 service or operating a gray device within this state shall be subject to  
9 a penalty of five thousand dollars for each day of such operation.

10 Sec. 6. Original sections 9-607 and 9-649, Reissue Revised Statutes  
11 of Nebraska, and sections 9-601 and 9-603, Revised Statutes Cumulative  
12 Supplement, 2018, are repealed.