

LEGISLATIVE BILL 427

Approved by the Governor May 28, 1991

Introduced by Haberman, 44

AN ACT relating to bingo and other gambling; to amend sections 9-235, 9-264, 9-330, 9-350, 9-354, 9-401, 9-418, 9-419, 9-420, 9-429, 9-436, 9-509, 9-604, and 9-701, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1,101, 9-1,104, 9-1,105, 9-201, 9-203, 9-207.01, 9-214.01, 9-216, 9-226, 9-227, 9-228, 9-233, 9-233.01, 9-235.01, 9-235.02, 9-235.03, 9-236, 9-239, 9-247, 9-250, 9-253, 9-258, 9-261, 9-266, 9-306.01, 9-322, 9-323, 9-324, 9-328, 9-329, 9-329.02, 9-332, 9-340.02, 9-344, 9-345.03, 9-356, 9-421, 9-601, 9-620, 9-623, 9-630, 9-631, 9-632, 9-639, 9-640, 9-642, 9-646, 9-649, 9-650, and 9-653, Revised Statutes Supplement, 1990; to authorize fees for certain publications; to require personal history reports; to change provisions relating to the disposition of prizes won by investigators, fingerprinting requirements, and criminal history record checks; to define and redefine terms; to provide for and change powers and duties of the Department of Revenue; to provide for and change provisions relating to administrative fines; to provide for personal service for certain notices; to change provisions relating to certain proceedings; to require license and permit renewal applications to be submitted by certain dates; to change provisions relating to participation in and the conduct of bingo; to provide for a permit to conduct bingo on an excursion or dinner train; to provide for the confidentiality of personal history reports; to prohibit imposition of certain occupation taxes; to change provisions relating to pickle card units, pickle card dispensing devices, lotteries and raffles, the conduct of a county or city lottery, and gift enterprises; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 9-1,101, Revised Statutes Supplement, 1990, be amended to read as follows:

9-1,101. (1) The Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, ~~and the Nebraska Small Lottery and Raffle Act,~~ and section 9-701 shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which division is hereby created. The Department of Revenue shall make annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts.

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

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

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

(5) The Charitable Gaming Division may charge a fee for publications and listings it produces. The fee shall not exceed the cost of publication and distribution of such items. The division may also charge a fee for making a copy of any record in its possession equal to the actual cost per page. The division shall remit the fees to the State Treasurer for credit to the Charitable Gaming Operations Fund.

Sec. 2. That section 9-1,104, Revised Statutes Supplement, 1990, be amended to read as follows:

9-1,104. (1) Any person applying for or holding a license as ~~(1) (a) a commercial lessor,~~ distributor, gaming manager, or manufacturer pursuant to the Nebraska Bingo Act, ~~(2) (b) a distributor,~~

manufacturer, pickle card operator, or sales agent pursuant to the Nebraska Pickle Card Lottery Act, or ~~(a)~~ (c) a lottery operator or manufacturer-distributor pursuant to the Nebraska County and City Lottery Act shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol for the purpose of determining whether the Department of Revenue has a basis to deny the license application or to suspend, cancel, or revoke the person's license. Each manufacturer, distributor, manufacturer-distributor, and lottery operator shall also submit a personal history report to the department on a form provided by the department.

(2) If the applicant or licensee is a corporation or organization, the persons subject to such requirement shall include any officer or director of the corporation or organization, his or her spouse, and, if applicable, any stockholder owning in the aggregate more than ten percent of the stock of the corporation. If any stockholder owning more than ten percent of the stock of the applicant or licensee corporation is a corporation or partnership, every partner of such partnership or officer of such corporation and stockholder owning more than ten percent of the stock of such corporation shall also be subject to such requirement. If the applicant or licensee is a partnership, the persons subject to such requirement shall include any partner and his or her spouse.

(3) A person applying for or holding a license as a pickle card operator shall be subject to such requirement only if such an investigation has not been performed by the Nebraska Liquor Control Commission.

(4) The applicant or licensee shall pay the actual cost of any fingerprinting or check of his or her criminal history record information.

(5) Refusal to comply with this section by any person licensed or seeking a license under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, or the Nebraska Pickle Card Lottery Act shall be a violation of the act under which such person is licensed or is seeking licensure.

Sec. 3. That section 9-1,105, Revised Statutes Supplement, 1990, be amended to read as follows:

9-1,105. The Tax Commissioner may apply to the Director of Administrative Services and the Auditor of Public Accounts to establish and maintain a

Charitable Gaming Investigation Petty Cash Fund. The funds used to initiate and maintain the Charitable Gaming Investigation Petty Cash Fund shall be drawn solely from the Charitable Gaming Operations Fund. The Tax Commissioner shall determine the amount of money to be held in the Charitable Gaming Investigation Petty Cash Fund, consistent with carrying out the duties and responsibilities of the Charitable Gaming Division of the Department of Revenue but not to exceed five thousand dollars for the entire division. This restriction shall not apply to funds otherwise appropriated to the Charitable Gaming Operations Fund for investigative purposes. When the Director of Administrative Services and the Auditor of Public Accounts have approved the establishment of the Charitable Gaming Investigation Petty Cash Fund, a voucher shall be submitted to the Department of Administrative Services accompanied by such information as the department may require for the establishment of the fund. The Director of Administrative Services shall issue a warrant for the amount specified and deliver it to the Charitable Gaming Division. The fund may be replenished as necessary, but the total amount in the fund shall not exceed ten thousand dollars in any fiscal year. The fund shall be audited by the Auditor of Public Accounts.

Any prize amounts won, less any charitable gaming investigative expenditures, by Charitable Gaming Division personnel with funds drawn from the Charitable Gaming Investigation Petty Cash Fund or reimbursed from the Charitable Gaming Operations Fund shall be deposited into the Charitable Gaming Operations Investigation Petty Cash Fund.

For the purpose of establishing and maintaining legislative oversight and accountability, the Department of Revenue shall maintain records of all expenditures, disbursements, and transfers of cash from the Charitable Gaming Investigation Petty Cash Fund.

By September 15 of each year, the department shall report to the budget division of the Department of Administrative Services and to the Legislative Fiscal Analyst the unexpended balance existing on June 30 of the previous fiscal year relating to investigative expenses in the Charitable Gaming Investigation Petty Cash Fund and any funds existing on June 30 of the previous fiscal year in the possession of Charitable Gaming Division personnel involved in investigations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to

sections 72-1237 to 72-1276.

Sec. 4. That section 9-201, Revised Statutes Supplement, 1990, be amended to read as follows:

9-201. Sections 9-201 to 9-266 and sections 7 and 11 of this act shall be known and may be cited as the Nebraska Bingo Act.

Sec. 5. That section 9-203, Revised Statutes Supplement, 1990, be amended to read as follows:

9-203. For purposes of the Nebraska Bingo Act, unless the context otherwise requires, the definitions found in sections 9-204 to 9-225 and section 7 of this act shall be used.

Sec. 6. That section 9-207.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-207.01. Commercial lessor shall mean a person, partnership, corporation, or organization which including a licensed organization permitted to conduct bingo under the Nebraska Bingo Act, who owns or is a lessee of premises which are offered for leasing to a licensed organization on which bingo is or will be conducted.

Sec. 7. Excursion or dinner train shall mean a train which has all of its passengers board and depart from the same location and is operated for trips of short duration for sightseeing, dining, entertainment, or other recreational purposes.

Sec. 8. That section 9-214.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-214.01. Manufacturer shall mean any person (1) who manufactures, converts, modifies, adds to, or removes parts or a portion from any bingo supplies and equipment, item, device, or assembly to further its promotion or sale for use in a bingo activity regulated by the Nebraska Bingo Act or (2) who assembles from raw materials or subparts a completed item or items defined as bingo supplies and equipment which are used in connection with any bingo activity regulated by the act, except that a person who places, finishes, or configures bingo paper which has been produced by a manufacturer into a looseleaf or book form or some other format for distribution to an organization licensed to conduct bingo shall not be considered a manufacturer but shall be considered a distributor.

Sec. 9. That section 9-216, Revised Statutes Supplement, 1990, be amended to read as follows:

9-216. Premises shall mean a building, or a distinct portion of a building, or a railroad coach car

of an excursion or dinner train in which bingo is being played and shall not include any area of land surrounding the building or excursion or dinner train.

No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated, or conducted whether or not such premises have different mailing addresses or legal descriptions.

Sec. 10. That section 9-226, Revised Statutes Supplement, 1990, be amended to read as follows:

9-226. The department shall have the following powers, functions, and duties:

- (1) To issue 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, ~~but not be limited to,~~ instances in which the applicant or licensee or any person with a substantial interest therein:
 - (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, or the Nebraska Pickle Card Lottery Act, or the Nebraska Small Lottery and Raffle Act or any rules or regulations adopted and promulgated pursuant to the 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 to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to governmental agencies at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or involving moral turpitude;
 - (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed under the Nebraska Bingo Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law;
 - (f) made a misrepresentation of or failed to disclose a material fact to the department;
 - (g) failed to prove by clear and convincing evidence his or her qualifications to be licensed in accordance with the Nebraska Bingo Act; or
 - (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; or (i) failed to pay an administrative fine imposed 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;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include, ~~but not be limited to,~~ instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon the charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo 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; (f) made a misrepresentation of or failed to disclose a material fact to the department; ~~or~~ (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

(4) To issue and cause to be served upon any license holder an order requiring the license holder to cease and desist from violations of the act. The order shall give reasonable notice of the rights of the license holder to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within

twenty days of 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 license holder to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder shall be deemed in default and the proceeding may be determined against the license holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To impose an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee violated the provisions, requirements, conditions, limitations, or duties imposed by the act or rules and regulations adopted and promulgated pursuant to the act. In determining whether to impose an administrative fine and the amount of the fine if any fine is imposed, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from bingo receipts of a licensed organization and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department imposing such fine;

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

~~(6)~~ (7) To require periodic reports of bingo activity from license holders under the act as the department deems necessary to carry out the act;

~~(7)~~ (8) 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 bingo activities 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 acquire 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. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

~~(8)~~ (9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid to the state as taxes imposed by the act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

~~(9)~~ (10) To confiscate and seize bingo supplies and equipment pursuant to section 9-262.01; and

~~(10)~~ (11) To adopt and promulgate such rules and regulations, prescribe such forms, and employ such staff, including inspectors, as are necessary to carry out the Nebraska Bingo Act.

Sec. 11. (1) All money collected by the department as an administrative fine shall be remitted on a monthly basis to the State Treasurer for credit to the permanent school fund.

(2) Any administrative fine imposed under section 9-226 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.

Sec. 12. That section 9-227, Revised Statutes Supplement, 1990, be amended to read as follows:

9-227. (1) The Tax Commissioner may suspend any license, 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.

(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 with the act, 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), and (3) 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 of 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 of 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 Bingo 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.

Sec. 13. That section 9-228, Revised Statutes Supplement, 1990, be amended to read as follows:

9-228. Before the adoption, amendment, or repeal of any rule or regulation, or the suspension, revocation, or cancellation of any license, or the imposition of any administrative fine pursuant to section 9-226, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to impose an administrative fine shall be considered 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 impose an administrative fine, serve notice upon the licensee by personal service or certified or registered mail, return receipt requested, 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.

Sec. 14. That section 9-233, Revised Statutes Supplement, 1990, be amended to read as follows:

9-233. (1) All licenses to conduct bingo and licenses issued to designated supervising members and designated members responsible for the proper utilization of gross receipts shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted to the department on or before August 15 of each year unless such application only pertains to limited period bingo. Each annual application for a license or license renewal shall be accompanied by:

(a) A sworn statement of each designated supervising member that he or she will be responsible for compliance with appropriate rules and regulations; and

(b) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, salary, profits, compensation, reward, or recompense will be paid to any person or organization, except payments sanctioned by the department, and that all profits will be spent for a lawful purpose.

(2) The department shall establish the following classes of licenses: for licensed organizations:

(a) Class I licenses which shall include organizations with gross receipts from the conduct of bingo not exceeding which are less than one hundred fifty thousand dollars per license year; and

(b) Class II licenses which shall include organizations with gross receipts from the conduct of bingo equal to or greater than one hundred fifty thousand dollars per license year. For purposes of this subsection, when bingo occasions are conducted on a joint basis by two or more licensed organizations, the class of license required shall be determined based upon the combined gross receipts of all licensed organizations involved in the conduct of the bingo occasion.

(3) A fee of fifteen dollars shall be charged for a Class I license, ~~to conduct bingo~~, a fee of fifty dollars for a Class II license, a fee of five dollars for a license for each designated supervising member, and a fee of five dollars for a license for each designated member responsible for the proper utilization of gross receipts.

(4) The department shall adopt and promulgate rules and regulations to establish reporting requirements for each class of ~~licensed organization~~ license issued.

Sec. 15. That section 9-233.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-233.01. A manufacturer shall obtain a license from the department prior to selling or supplying any bingo supplies or equipment to any distributor or other person for use within this state in a bingo activity regulated by the Nebraska Bingo Act. The applicant shall include with the application form supplied by the department a license fee of one thousand five hundred twenty-five dollars and the following information:

(1) The name and address of the applicant and the name and address of each of the applicant's separate locations manufacturing bingo supplies or equipment;

(2) The name and home address of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(3) A full description of each type of bingo supplies or equipment which the applicant seeks to manufacture or market in this state;

(4) For each such type of item, the brand name under which it is sold;

(5) If the applicant is a foreign manufacturer, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 9-233.03;

(6) A list of all distributors of such bingo supplies or equipment in which the applicant has some financial interest and the details of such interest. For purposes of this subdivision, financial interest shall include, among all other interests, any indebtedness from the applicant to another person or from another person to the applicant in excess of five

hundred dollars;

(7) A current list of all Nebraska-licensed distributors to whom the manufacturer wishes to sell; and

(8) Any other information which the department deems necessary.

The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. A license shall expire on September 30 of each year and may be renewed annually. An application for license renewal shall be submitted to the department on or before August 15 of each year.

Any person licensed as a manufacturer pursuant to section 9-332 may act as a manufacturer pursuant to this section upon filing the proper forms without submitting the fees provided in this section. Such person shall comply in every other respect with the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, and all rules and regulations adopted and promulgated pursuant to such acts.

Sec. 16. That section 9-235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-235. 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 registration fee in the amount of twenty-five dollars, together with a license fee of one thousand five hundred 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; and a current list, if requested, of those organizations within the state to whom the applicant is selling bingo supplies and equipment. All applications shall include a sworn statement by the applicant or the appropriate officer thereof that the applicant shall comply with all provisions of the Nebraska Bingo Act and all rules and regulations adopted and promulgated under such act.

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

All distributors' licenses shall expire on September 30 of each year. ~~Renewal of any license issued pursuant to this section shall be initiated no less than forty-five days prior to the expiration of the~~

license An application for license renewal shall be submitted to the department on or before August 15 of each year.

Any person licensed as a distributor pursuant to section 9-330 may act as a distributor pursuant to this section without filing an application or submitting any fees provided for in this section. Such person shall comply in every other respect with the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act.

Sec. 17. That section 9-235.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-235.01. (1) An organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to license a gaming manager. An organization licensed to conduct bingo under a Class I license may license a gaming manager.

(2) No gaming manager licensed under the Nebraska Bingo Act shall be connected with or interested in, directly or indirectly, any person, partnership, firm, corporation, or other party licensed as a distributor under section 9-235 nor shall any such person hold any other licenses issued under the Nebraska Bingo Act or under any other kind of gaming activity which is authorized or regulated under Chapter 9.

Sec. 18. That section 9-235.02, Revised Statutes Supplement, 1990, be amended to read as follows:

9-235.02. (1) Any person who desires to obtain a license as a gaming manager 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 and (b) such other information which the department deems necessary. The information required by this subsection shall be kept current. A gaming manager shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(2) A gaming manager shall not manage and operate a bingo game 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 social security number of the licensed gaming manager

and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a member responsible for the proper utilization of gross receipts signifying that such licensed organization approves the gaming manager to manage and operate the bingo game on behalf of such organization.

(3) A gaming manager may operate as such for more than one licensed organization. Each licensed organization for which the gaming manager manages and operates a bingo game shall obtain the authorization described in subsection (2) of this section.

(4) A fee of one hundred fifty dollars shall be charged for each license issued pursuant to this section. Such licenses shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted to the department on or before August 15 of each year.

Sec. 19. That section 9-235.03, Revised Statutes Supplement, 1990, be amended to read as follows:

9-235.03. (1) Any commercial lessor who desires to lease premises to a licensed organization for the purpose of conducting bingo 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 and address of the applicant and of all other persons who have a substantial interest in or who are in any capacity a real party in interest in the applicant's business as pertains to the Nebraska Bingo Act, (b) a designated mailing address and legal description of the premises intended to be covered by the license sought, (c) the lawful capacity of the premises for public assembly purposes, (d) the names and mailing addresses of the officers of the licensed organization which is to conduct bingo at the premises and the place and time the licensed organization intends to conduct bingo, (e) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for the use of the premises of the commercial lessor, and (f) any other information the department deems necessary.

(2) No person other than a licensed commercial lessor shall lease premises for the conduct of bingo unless specifically exempted from the requirement of being a licensed commercial lessor under the Nebraska Bingo Act. A commercial lessor wishing to lease

premises for the conduct of bingo who does not receive more than two hundred fifty dollars per month as aggregate total rent from leasing such premises for the conduct of bingo shall be exempt from obtaining a license to lease bingo premises. A not-for-profit organization renting its premises solely to its own auxiliary shall be exempt from the requirement of holding a license to lease bingo premises.

(3) An application for a commercial lessor license shall be accompanied by a fee of one hundred dollars.

(4) A commercial lessor license shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted to the department on or before August 1 of each year. Each premises shall be separately licensed. A commercial lessor may lease the same premises under the same license to more than one licensed organization. A commercial lessor who wants to lease more than one premises shall file a separate application and pay a separate fee for each premises.

Sec. 20. That section 9-236, Revised Statutes Supplement, 1990, be amended to read as follows:

9-236. Upon payment of an annual permit fee of ten dollars, a licensed organization shall obtain a permit from the city or village clerk or finance department when bingo is to be conducted within the limits of any incorporated city or village and from the county clerk when bingo is to be conducted on an excursion or dinner train or outside the limits of any incorporated city or village. Such annual permit fee of ten dollars shall be paid before bingo is played and shall be paid to the city or village clerk or finance director or county clerk at the time of obtaining the annual permit. When bingo is to be conducted jointly by two or more licensed organizations, such licensed organizations shall obtain a permit therefor by paying a fee of ten dollars. All permits shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation. Such permit shall be displayed conspicuously at the place where bingo is conducted at all times during the conduct thereof.

Sec. 21. That section 9-239, Revised Statutes Supplement, 1990, be amended to read as follows:

9-239. (1) The department shall collect a state tax of six percent on the gross receipts received from the conducting of bingo within the state. Such tax

shall be remitted to the department and credited to the Charitable Gaming Operations Fund. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with any other reports as may be required by the department. The proceeds from the tax shall be used to pay for the costs of regulation and enforcement of the Nebraska Bingo Act.

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

(3) Unless otherwise provided in the act, no occupation tax on any receipts derived from the conduct of bingo 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.

Sec. 22. That section 9-247, Revised Statutes Supplement, 1990, be amended to read as follows:

9-247. (1) No licensed organization shall lease any premises with rental payments based on a percentage of receipts or profits from bingo or on the number of persons participating in any bingo occasion. Rent shall be at a fixed rate not subject to change during the term of the lease, and not in excess of fair market value. All bingo occasions shall be conducted only by the licensed organization which holds such lease.

(2) All lease agreements of real and personal property shall not be in excess of fair market value and shall be subject to approval by the department. If

requested to do so by the department, an organization shall show that the amount of rent charged does not exceed fair market value.

(3) No lease of any premises shall contain any right to use bingo supplies, equipment, or any service.

(4) No licensed organization shall lease premises for the conduct of bingo from any person or business other than a licensed commercial lessor except as provided in section 9-235.03.

Sec. 23. That section 9-250, Revised Statutes Supplement, 1990, be amended to read as follows:

9-250. (1) No person under eighteen years of age shall play or participate in any bingo game, except that any person may play limited period bingo when the prize or prizes to be awarded do not exceed twenty-five dollars in cash or other value per game and no alcoholic beverages are served.

(2) A licensed organization may prohibit the presence of any person under eighteen years of age at its bingo occasion, except that (a) a person under eighteen years of age may be present at a bingo occasion if such person's parent or legal guardian is present and approves of the presence of such person during the bingo occasion and (b) any person may be present at a limited period bingo occasion when the prize or prizes to be awarded do not exceed twenty-five dollars in cash or other value per game and no alcoholic beverages are sold or served. No such person shall be present at a bingo occasion unless such person's parent or legal guardian is present and approves such person's presence during the bingo occasion; except that any licensed organization may prohibit the presence of any person at its bingo occasion.

Sec. 24. That section 9-253, Revised Statutes Supplement, 1990, be amended to read as follows:

9-253. Bingo games shall be conducted only in the following manner:

(1) All bingo cards used in a regular bingo game shall be sold at a price established before the start of the bingo occasion;

(2) Beginning January 1, 1990, an An organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to use only disposable bingo cards meeting the requirements of section 9-254 for all regular and special bingo games conducted at its bingo occasions;

(3) At any bingo occasion except limited period bingo, any player buying or renting an additional regular card shall be entitled to use such card in all

regular games conducted after he or she buys or rents the card except when regular bingo games are played on disposable cards;

(4) Each person admitted to a bingo occasion, other than limited period bingo, shall be furnished with a regular bingo card enabling him or her to play in all regular bingo games conducted at such bingo occasion except when regular bingo games are played on disposable cards;

(5) The licensed organization shall keep an accurate, separate count of the number of regular bingo cards and special bingo cards which are sold, rented, or used at each bingo occasion. The department shall prescribe by rule and regulation the manner in which such records are kept, including, but not limited to, the manner in which disposable bingo cards may be issued at a bingo occasion. Such information shall be available for inspection at any time;

(6) Method of play:

(a) The method of play in any bingo game and the utilization of bingo supplies and equipment shall be such that each player is afforded an equal opportunity to win;

(b) For any means of selection permitted by subdivision (1) or (2) of section 9-255, the designators to be drawn shall be essentially the same in size, ~~color~~, shape, weight, balance, and all other characteristics so that at all times during the conduct of bingo each designator possesses the capacity for equal agitation with any other object within the receptacle;

(c) All designators within the total set from which the selection is to be made shall be subject to random selection at the beginning of each bingo game;

(d) The announcement of all designators selected shall be clearly audible to the players present;

(e) When more than one room is used for any one bingo game, the receptacle or electronic selection device and the caller and any assistant shall be in the room where the greatest number of players are present and all numbers, letters, or other designators shall be announced in a manner clearly audible to the players in each room;

(f) Once removed, no designator shall be returned to the receptacle until after the verification of the winner of the game in which any means of selection permitted by subdivision (1) or (2) of section 9-255 is used; and

(g) The receptacle or electronic selection device and the caller shall be visible to the majority of players at all times;

(7) The particular arrangement of numbers, letters, or other designators required to be covered in order to win and the amount of the prize for any bingo game shall be clearly described and audibly announced to the players immediately before each game. The amount of the prize for any bingo game also shall be posted where the regular bingo cards are distributed;

(8) Verification of winner:

(a) The numbers, letters, or other designators appearing on the winning card at the time a winner is determined shall be verified in such a manner that all present can hear; and

(b) At the time a winner is determined, any player may call for a verification of all designators not yet selected. This verification shall be made in the immediate presence of the supervising member and at least one disinterested player;

(9) When more than one player is found to be the winner on the call of the same number, letter, or other designator in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among the winners. When equal division of a merchandise prize is not possible, identical substitute merchandise prizes, the aggregate retail value of which is approximately equal to that of the designated prize, shall be awarded, and if not immediately available, the licensed organization shall deliver the prizes to the winners;

(10) No licensed organization shall permit any person who is conducting or assisting in the conduct of bingo on a bingo occasion to participate as a player on that occasion; and

(11)~~(a)~~ A licensed commercial lessor, distributor, or manufacturer, any person having a substantial interest in a licensed commercial lessor, distributor, or manufacturer, or any employee or agent of a licensed commercial lessor, distributor, or manufacturer shall not operate, manage, conduct, advise, or assist in the operating, managing, conducting, promoting, or administering of bingo. As used in For purposes of this subdivision, the term assist shall include, but not be limited to, the payment of any expense of a licensed organization, whether such payment is by loan or otherwise.

~~(b) A licensed commercial lessor shall not have a substantial interest in a licensed organization~~

conducting bingo-

Sec. 25. That section 9-258, Revised Statutes Supplement, 1990, be amended to read as follows:

9-258. Bingo gross receipts less the amount awarded in prizes at each bingo occasion shall be segregated from other revenue of a licensed organization and placed in a separate checking account of the licensed organization. All lawful purpose donations and from which all payments shall be made relating to all allowable bingo expenses, including expenses for the management, operation, or conduct of any bingo games, except for the payment of prizes, shall be paid by check from such account. Prizes may be paid out in cash by the licensed organization if the licensed organization obtains a receipt from the winner of each prize of five hundred dollars or more containing (1) the name, address, and telephone number of the winner, (2) the date of payment, (3) the location of payment, and (4) the amount of the prize payment, and (5) the member of the organization which paid the winner. Separate books of its bingo operations shall be maintained by a licensed organization. The current price of merchandise prizes donated to a licensed organization shall not be reported as an expense in its records or financial statement of bingo operations. Records, reports, lists, and all postings required by the Nebraska Bingo Act shall be preserved for three years. Any law enforcement agency or other agency of government shall have the authority to investigate the bingo records of an organization at any time. Organizations shall, upon proper written request, deliver their bingo records to the department, law enforcement agency, or other agency of government for investigation.

Sec. 26. That section 9-261, Revised Statutes Supplement, 1990, be amended to read as follows:

9-261. No expense shall be incurred or amounts paid in connection with the conduct of bingo by a licensed organization, except those reasonably expended for prizes, utilities used during the bingo occasion, security services used during the bingo occasion, bingo license fees, taxes related to bingo, the rental or lease of any premises or personal property related to bingo, compensation of any person conducting bingo, any gaming manager, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts, advertising conducted in accordance with section 9-251, bookkeeping fees, attorney's fees, janitorial fees, and bingo equipment and supplies or such equipment and supplies

rented or leased pursuant to the Nebraska Bingo Act. All expenses identified in this section, except those for the awarding of prizes and the payment of attorney's fees, shall be paid for by a check written from the licensed organization's bingo checking account. A licensed organization may commingle funds received from the conduct of bingo with any general operating funds of the licensed organization, 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 conduct of bingo and are used for a lawful purpose as defined in section 9-211.

Sec. 27. That section 9-264, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-264. In any civil action commenced pursuant to section 9-263, a court may allow:

(1) A temporary restraining order or injunction, with or without a bond as the court may direct, prohibiting a party 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 Bingo 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 attorneys' attorney's fees and court costs.

Sec. 28. That section 9-266, Revised Statutes Supplement, 1990, be amended to read as follows:

9-266. (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 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 Bingo 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 licensee, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, a certified copy of any report or record, (b) the publication of statistics so classified as to prevent the identification of particular reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of reports or records submitted by a licensed distributor or manufacturer when information on the 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 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 Bingo 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, (g) the release of any application, without the contents of any submitted personal history report, filed with the department to obtain a license to conduct activities under the act, which shall be deemed a public record, or (h) the release of any report filed pursuant to section 9-259 or any other report filed by a license holder pursuant to the act, which shall be deemed a public record.

(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 license holders, or the dates on which such licenses were issued.

(4) Notwithstanding the provisions of 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 reports or records submitted by a licensed distributor or manufacturer pursuant to the act when information on the reports or records is relevant to any action or proceeding instituted or being considered by the United States 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 the provisions of subsection (1) of this section, the Tax Commissioner may permit other tax officials of this state to inspect 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.

Sec. 29. That section 9-306.01, Revised Statutes Supplement, 1990, be amended to read as follows:

9-306.01. 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, 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 subdivision (6) of section 77-2702; or (2) in the case of an organization holding a certificate of exemption under section 501(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 has been is in use by the organization primarily for purposes other than the conduct of gaming activities. for at least one year prior to its selection as a designated premises. 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.

Sec. 30. That section 9-322, Revised Statutes Supplement, 1990, be amended to read as follows:

9-322. The department shall have the following powers, functions, and duties:

- (1) To issue 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, ~~but not be limited to,~~ instances in which the applicant or licensee or any person with a substantial interest therein: (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, or the Nebraska Small Lottery and Raffle 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 to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) 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; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) 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; (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; or (i) failed to pay an administrative fine imposed 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;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include, ~~but not be limited to,~~ instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) 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; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

(4) To issue and cause to be served upon any license holder an order requiring the license holder to cease and desist from violations of the act. The order shall give reasonable notice of the rights of the license holder to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within

twenty days of 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 license holder to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder shall be deemed in default and the proceeding may be determined against the license holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To impose ~~or levy~~ an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee 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 impose an administrative fine and the amount of the fine, if any ~~such~~ fine is ~~levied imposed~~, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from pickle card lottery proceeds of a licensed organization and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department imposing 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 it 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, 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, and to prescribe all forms necessary for the registration of 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. 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 pursuant to section 9-344 in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

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

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

(13) 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

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

Sec. 31. That section 9-323, Revised Statutes Supplement, 1990, be amended to read as follows:

9-323. (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 act. 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 the act.

(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 with the act, 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), and (3) 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 of 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 of 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.

Sec. 32. That section 9-324, Revised Statutes Supplement, 1990, be amended to read as follows:

9-324. 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 imposition 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 impose 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 impose an administrative fine, serve notice upon the licensee by personal service or certified mail, return receipt requested, 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.

Sec. 33. That section 9-328, Revised Statutes Supplement, 1990, be amended to read as follows:

9-328. (1) All licenses to conduct a lottery by the sale of pickle cards and licenses issued to designated members responsible for the proper utilization of gross proceeds shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. An application for license renewal shall be submitted to the department on or before August 15 of each year 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. Each annual application for a license shall be accompanied by a sworn statement of the designated member responsible for the proper utilization of gross proceeds that all gross proceeds will be used in accordance with section 9-347 and that he or she will be responsible for compliance with the Nebraska Pickle Card Lottery Act and all rules and regulations adopted and promulgated pursuant to such act.

(2) The department shall establish classes of licenses for licensed organizations based upon the manner in which the licensed organization intends to sell the 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 its pickle cards through a licensed sales agent.

(3) A license fee of one hundred dollars shall be charged for each Class I license, one hundred fifty dollars for each Class II license, and five dollars for a license for each designated member responsible for the proper utilization of gross proceeds.

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

Sec. 34. That section 9-329, Revised Statutes Supplement, 1990, be amended to read as follows:

9-329. (1) No sales agent shall market, sell, or deliver any pickle card unit to any pickle card operator without first obtaining a 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 and address 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.

A statement signed by the person licensed as a member responsible for the proper utilization of gross proceeds 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 member responsible for the proper utilization of gross proceeds shall be licensed as a sales agent.

A fee of fifty dollars shall be charged for each license issued pursuant to this section. The proceeds from such fee shall be deposited in the Charitable Gaming Operations Fund. Such licenses shall expire on September 30 of each year or such other date which the department may prescribe by rule and regulation and shall ~~may~~ be renewed annually. An application for license renewal shall be submitted to the department on or before August 15 of each year.

(3) 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.

(4) The department may prescribe a separate

application form for renewal purposes.

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

Sec. 35. That section 9-329.02, Revised Statutes Supplement, 1990, be amended to read as follows:

9-329.02. (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, 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, or corporation applying for the license, (b) a description of the premises on which the pickle cards will be sold or offered for sale, and (c) 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 fee of fifty 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 year or such other date as the department may prescribe by rule and regulation and may be renewed annually. The proceeds from such license fees shall be deposited in the Charitable Gaming Operations Fund. An application for license renewal shall be submitted to the department on or before August 1 of each year.

(4) One license issued to any sole proprietorship, partnership, or corporation under this section as a pickle card operator shall cover the sole proprietorship, partnership, 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, 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. For purposes of this subsection, a change of ownership of stock in a corporation which does not result in any person becoming the owner of a substantial interest in such corporation who was not the owner of a substantial interest immediately preceding the transaction shall not be deemed a 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 member responsible for the proper utilization of gross proceeds 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 its individual pickle cards.

(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. The department shall prescribe by rule and regulation a report to be submitted to the department by the pickle card operator which will allow the department to determine compliance with this subsection.

Sec. 36. That section 9-330, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-330. 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 an application fee in the amount of twenty-five dollars, together with a license fee of one thousand five hundred 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, and a current list, if requested, of those organizations within the state to whom the applicant is selling pickle card units. 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.

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

All distributors' licenses shall expire on September 30 of each year. Renewal of any license issued pursuant to this section shall be initiated not less than forty-five days prior to the expiration of the license. An application for license renewal shall be submitted to the department on or before August 15 of each year.

Sec. 37. That section 9-332, Revised Statutes Supplement, 1990, be amended to read as follows:

9-332. A manufacturer shall obtain a license from the department prior to manufacturing or selling or supplying to any persons for use within this state any pickle cards or pickle card units or engaging in any interstate activities relating to such pickle cards or pickle card units. The applicant shall include with the application form supplied by the department a license fee of one thousand five hundred twenty-five dollars and the following information:

- (1) The name and address of the applicant and

the name and address of each of its separate locations manufacturing pickle cards and pickle card units;

(2) The name and home address of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(3) A full description of each type of pickle card and pickle card unit which the applicant seeks to manufacture or market in this state;

(4) For each such type of pickle card or pickle card unit, the brand name under which it is sold;

(5) If the applicant is a foreign manufacturer, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 9-334;

(6) A list of all distributors of such pickle cards and pickle card units in which the applicant has some financial interest and the details of such interest. For the purpose of this subdivision, financial interest shall include, among all other interests, any indebtedness from the applicant to another person or from another person to the applicant in excess of five hundred dollars; and

(7) A current list of all Nebraska-licensed distributors to whom the manufacturer wishes to sell.

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 each year and may be renewed annually. An application for license renewal shall be submitted to the department on or before August 15 of each year.

Sec. 38. That section 9-340.02, Revised Statutes Supplement, 1990, be amended to read as follows:

9-340.02. (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) Every 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) Pickle card units shall be delivered by the sales agent to the pickle card operator in any manner which results in a signed receipt from the pickle card operator, including personal delivery or delivery 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 device used in connection with a lottery by the sale of pickle cards.

Sec. 39. That section 9-344, Revised Statutes Supplement, 1990, be amended to read as follows:

9-344. (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. Such tax shall be credited 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.

Sec. 40. That section 9-345.03, Revised Statutes Supplement, 1990, be amended to read as follows:

9-345.03. (1) ~~Commencing on and after January 17, 1989, no~~ No coin-operated or currency-operated device for the dispensing of pickle cards shall be used by any individual to obtain a pickle card unless and until a registration decal is obtained from the department and the decal has been permanently and conspicuously affixed to the device.

(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 coin-operated or currency-operated dispensing 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. All decals issued by the department pursuant to this section shall expire on December 31 of each year 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 coin-operated or currency-operated device used for the dispensing of pickle cards shall provide the requesting individual immediate access to any pickle cards contained within such device.

Sec. 41. That section 9-350, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-350. (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; ~~or~~ (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 owner 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 the owner's violation of subsection (2) of section 9-345.03, if the owner has applied for and has received a current registration decal for the seized device.

(3) The Tax Commissioner may, upon finding that an owner 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 the 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.

(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 pickle card or pickle card unit pursuant to this section.

Sec. 42. That section 9-354, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-354. 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 party 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 ~~attorneys'~~ attorney's fees and court costs.

Sec. 43. That section 9-356, Revised Statutes Supplement, 1990, be amended to read as follows:

9-356. (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 imposition of fines, (g) the release of any application, without the contents of any submitted personal history report, filed with the department to obtain a license to conduct activities under the act, which shall be deemed a public

record, or (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.

(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 license holders, or the dates on which such licenses were issued.

(4) Notwithstanding the provisions of 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 States 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 the provisions of 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.

Sec. 44. That section 9-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-401. Sections 9-401 to 9-437 and sections 46 and 47 of this act shall be known and may be cited as the Nebraska Lottery and Raffle Act.

Sec. 45. That section 9-418, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-418. The department shall have the following powers, functions, and duties:

- (1) To issue licenses and permits;
- (2) ~~To deny any license application or renewal application for nonpayment of taxes and additions to taxes including penalties and interest or for~~

noncompliance with any other provision of the Nebraska Lottery and Raffle Act or any rule or regulation adopted and promulgated pursuant to the act;

(3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation or cancellation shall include any noncompliance with any provision of the Nebraska Lottery and Raffle Act or a violation of any rule or regulation adopted and promulgated pursuant to such act. To deny any license or permit application or renewal application for cause. Cause for denial of an application for or renewal of a license or permit shall include instances in which the applicant, licensee, or permittee or any person with a substantial interest therein: (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, or the Nebraska Small Lottery and Raffle 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 the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where lottery or raffle activity required to be licensed under the Nebraska Lottery and Raffle Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska Lottery and Raffle Act; (h) failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo 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; or (i) failed to pay an administrative fine imposed 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;

(3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation, cancellation, or suspension of a license or permit shall include instances in which the licensee or permittee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Lottery and Raffle Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license or permit pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where lottery or raffle 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; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

(4) 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 lottery or raffle activities of any licensed organization required to be licensed pursuant to the act, to require by 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. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(5) To impose an administrative fine of not more than one thousand dollars on a licensee or permittee for cause. For purposes of this subdivision, cause shall include instances in which the licensee or permittee 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 impose an administrative fine and the amount of the fine if any fine is imposed, the department shall take into consideration the seriousness of the violation and the extent to which the licensee or permittee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from lottery or raffle proceeds of a licensed organization and shall be remitted by the licensee or permittee to the department within thirty days from the date of the order issued by the department imposing such fine;

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

~~(6)~~ (7) To confiscate and seize lottery or raffle tickets or stubs pursuant to section 9-432; and

~~(7)~~ (8) To adopt and promulgate such rules and regulations, prescribe such forms, and employ such staff, including inspectors, as are necessary to carry out the act Nebraska Lottery and Raffle Act.

Sec. 46. (1) All money collected by the department as an administrative fine shall be remitted on a monthly basis to the State Treasurer for credit to the permanent school fund.

(2) Any administrative fine imposed under section 9-418 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.

Sec. 47. (1) Before any application is denied pursuant to section 9-418, the department shall notify the applicant in writing 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.

(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 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 certified mail, return receipt requested, of the time, date, and place of the hearing. Such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

Sec. 48. That section 9-419, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-419. (1) The Tax Commissioner may suspend any license or permit, except that no order to suspend any license or permit shall be issued except upon a finding by unless the department determines that the licensee or permittee is not operating in accordance with the purposes and intent of the Nebraska Lottery and Raffle Act.

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

(3) The order of suspension shall may be withdrawn if the licensee or permittee provides the department with evidence that any prior findings or violations have been corrected and that the licensee or permittee is now in full compliance with the act, 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)~~, and ~~(3)~~ 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 ~~or~~ of the license or permit shall be held within twenty days of the date the suspension takes effect. A request by the licensee or permittee 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 of 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 or permit, the suspension shall continue pending an ~~application for rehearing or~~ an appeal of the decision of the department.

(7) Any period of suspension prior to the issuance of an order of suspension shall count toward the total amount of time a licensee may be suspended from gaming activities under the Nebraska Lottery and Raffle 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 a ~~rehearing or~~ an appeal shall be counted as a part of the period of cancellation.

Sec. 49. That section 9-420, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-420. Before the adoption, amendment, or repeal of any rule or regulation, ~~or~~ the suspension, revocation, or cancellation of any license or permit, or the imposition of an administrative fine pursuant to section 9-419 ~~9-418~~, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to impose an administrative fine shall be considered 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 impose an administrative fine, serve notice by personal service or certified mail, return receipt requested, upon the licensee or permittee 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.

Sec. 50. That section 9-421, Revised Statutes Supplement, 1990, be amended to read as follows:

9-421. (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 shall deem 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) Within twenty days after the service of any order or decision of the department upon any party to the proceeding, such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted, the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department, except as is provided for in subsection (4) of this section. Only one rehearing shall be granted by the department on the application of any one party.

(4) Any decision of the department to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license or permit in any proceeding before it may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 51. That section 9-429, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

9-429. Any licensed organization or any other organization or person conducting a lottery or raffle activity required to be licensed pursuant to the Nebraska Lottery and Raffle Act shall pay to the department a tax of two percent of the gross proceeds of each lottery having gross proceeds of more than one thousand dollars or raffle having gross proceeds of more than five thousand dollars. Such tax shall be remitted quarterly, within thirty days of the end of the quarter, on forms approved and provided by the department and shall be credited to the Charitable Gaming Operations Fund of the state. All deficiencies of the tax imposed by this section shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967.

Sec. 52. That section 9-436, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-436. In any civil action commenced pursuant to section 9-435, a court may allow:

(1) A temporary restraining order or injunction, with or without a bond as the court may direct, prohibiting a party 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 Lottery and Raffle Act and a determination of the number and times of violations for certification to the department for appropriate license or permit 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 attorneys' attorney's fees and court costs.

Sec. 53. That section 9-509, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

9-509. (1) Raffle shall mean a gambling scheme in which (a) participants pay or agree to pay something of value for an opportunity to win, (b) winning opportunities are represented by tickets differentiated by sequential enumeration, (c) winners are to be determined by a random drawing of tickets, and (d) at least eighty percent of all of the prizes to be awarded are merchandise prizes which are not directly or indirectly redeemable for cash by the ~~licensed~~ qualifying nonprofit organization conducting the raffle or any agent of the organization.

(2) Raffle shall not include (a) any gambling scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value, (b) any activity authorized or regulated under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska County and City Lottery Act, section 9-701, or Chapter 2, article 12, or (c) any activity prohibited under Chapter 28, article 11.

Sec. 54. That section 9-601, Revised Statutes Supplement, 1990, be amended to read as follows:

9-601. Sections 9-601 to 9-653 and section 64 of this act shall be known and may be cited as the Nebraska County and City Lottery Act.

Sec. 55. That section 9-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-604. (1) Community betterment purposes shall mean (a) benefiting persons by enhancing their opportunity for educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, by providing them with opportunities to contribute to the betterment of the community, or by increasing their comprehension of and devotion to the principles upon which this nation was founded, (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures, (c) lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people, ~~and~~ or (d) by providing tax relief for the community.

(2) Community betterment purposes shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

Sec. 56. That section 9-620, Revised Statutes Supplement, 1990, be amended to read as follows:

9-620. The department shall have the following powers, functions, and duties:

- (1) To issue 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; ~~but not be limited to,~~ instances in which the applicant or licensee or any person with a substantial interest therein:
 - (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 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 to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude;
 - (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the Nebraska County and City 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;
 - (f) made a misrepresentation of or failed to disclose a material fact to the department;
 - (g) failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska County and City Lottery Act;
 - (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; or (i) failed to pay an administrative fine imposed 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;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include, ~~but not be limited to,~~ instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska County and City Lottery Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where 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; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the act; or (h) failed to pay an administrative fine imposed pursuant to the act;

(4) To issue and cause to be served upon any license holder an order requiring the license holder to cease and desist from violations of the act. The order shall give reasonable notice of the rights of the license holder to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within twenty days of 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 license holder to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder shall be deemed in default and the proceeding may be determined against the license holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To impose ~~or levy~~ an administrative fine of not more than one thousand dollars on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee 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~~ impose an administrative fine and the amount of the fine, if any ~~such~~ levied imposed, the department shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is imposed, the fine shall not be paid from lottery proceeds of the county, city, or village and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department imposing such fine;

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

(7) To require periodic reports of lottery activity from licensed counties, cities, villages, manufacturer-distributors, and lottery operators and any other persons, organizations, or corporations as the department deems necessary to carry out the act;

(8) To audit, examine, or 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 a lottery, 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. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 9-648 in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(10) To confiscate and seize lottery equipment or supplies pursuant to section 9-649;

(11) To investigate the activities of any person applying for a license under the Nebraska County and City Lottery Act or relating to the conduct of any lottery activity under the act. Any license applicant or licensee shall produce such information, documentation, and assurances as may be required by the department to establish by a preponderance of the evidence the financial stability, integrity, and responsibility of the applicant or licensee, including, but not limited to, bank account references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, business entity and personal accounting records, and check records and ledgers. Any such license applicant or licensee shall authorize the department to examine bank accounts and other such records as may be deemed necessary by the department;

(12) To adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out the Nebraska County and City Lottery Act act; and

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

Sec. 57. That section 9-623, Revised Statutes Supplement, 1990, be amended to read as follows:

9-623. Before the adoption, amendment, or repeal of any rule or regulation, the suspension, revocation, or cancellation of any license pursuant to section 9-620, or the imposition of an administrative

fine pursuant to such section, the department shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to impose 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 impose an administrative fine, serve notice upon the licensee ~~or violator~~ by personal service or certified mail, return receipt requested, 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.

Sec. 58. That section 9-630, Revised Statutes Supplement, 1990, be amended to read as follows:

9-630. (1) No county, city, village, or lottery operator shall conduct a lottery without having first been issued a license by the department. An applicant for such license shall apply on a form prescribed by the department.

(2) Each application by any county, city, or village shall include:

(a) The name and address of the applicant;

(b) A certified copy of the election results at which the lottery was approved by a majority of the registered voters of the county, city, or village in the manner prescribed in section 9-625;

(c) Any approval by ordinance or resolution approved by a governing board of a county, city, or village sanctioning the conduct of a lottery;

(d) The names, addresses, and dates of birth of each person employed by the county, city, or village to conduct the lottery;

(e) The name and address of at least one person employed by the county, city, or village who shall represent the county, city, or village in all matters with the department regarding the conduct of the lottery;

(f) A written statement describing the type of lottery to be conducted by the county, city, or village;

(g) If the county, city, or village enters into a written agreement with a lottery operator:

(i) A copy of each proposal submitted to the county, city, or village by any individual, sole proprietorship, partnership, or corporation to operate the lottery; and

(ii) A copy of the proposed contract or

written agreement between the county, city, or village and the chosen lottery operator; and

(h) Any other information which the department deems necessary.

(3) Each application by any lottery operator shall include:

(a) The name, address, and date of birth of every individual who is the lottery operator or the sole proprietor, a partner, a corporate officer, or an employee of the lottery operator;

(b) The name and state identification number of the county, city, or village on whose behalf a lottery will be conducted;

(c) A statement signed by an authorized representative of the county, city, or village signifying that such county, city, or village approves the applicant to act as a lottery operator on behalf of such county, city, or village; and

(d) Any other information which the department deems necessary.

A separate license shall be obtained by a lottery operator for each county, city, or village on whose behalf a lottery will be conducted.

(4) The information required by this section shall be kept current. A county, city, village, or lottery operator shall notify the department thirty days in advance of any changes in the information originally submitted in the application form.

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

~~(6) The application and all supporting information shall be public records.~~

Sec. 59. That section 9-631, Revised Statutes Supplement, 1990, be amended to read as follows:

9-631. (1) All licenses issued to any county, city, or village to conduct a lottery and licenses issued to any lottery operator may be renewed biennially. The biennial expiration date shall be September 30 of every odd-numbered year. Applications for renewal of a county, city, or village license and for a lottery operator license shall be submitted to the department on or before August 15 of every odd-numbered year.

(2) A biennial license fee of one hundred dollars shall be charged for each license issued to any county, city, or village to conduct a lottery. A biennial license fee of five hundred dollars shall be charged for each license issued to a lottery operator.

Sec. 60. That section 9-632, Revised Statutes

Supplement, 1990, be amended to read as follows:

9-632. (1) No individual, sole proprietorship, partnership, or corporation shall manufacture, sell, print, or distribute lottery equipment or supplies for use or play in this state without having first been issued a manufacturer-distributor license by the department.

(2) The department shall charge a biennial license fee of one thousand five hundred twenty-five dollars for the issuance or renewal of a manufacturer-distributor license. The proceeds from such license fees shall be deposited in the Charitable Gaming Operations Fund. All manufacturer-distributor licenses may be renewed biennially. The biennial expiration date shall be September 30 of every odd-numbered year. An application for license renewal shall be submitted to the department on or before August 15 of every odd-numbered year.

(3) An applicant for issuance or renewal of a manufacturer-distributor license shall apply for a license on a form prescribed by the department. The application form shall include:

(a) The name and address of the applicant and the name and address of each of its separate locations manufacturing or distributing lottery equipment or supplies;

(b) The name and home address of all owners of the manufacturer-distributor business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(c) If the applicant is a foreign manufacturer-distributor, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 9-633; and

(d) Such other information as the department deems necessary.

(4) 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.

(5) Any person licensed as a manufacturer pursuant to section 9-233.01 or 9-332 or as a distributor pursuant to section 9-235 or 9-330 may act as a manufacturer-distributor pursuant to this section

upon the filing of the proper application form and payment of a biennial license fee of one thousand five hundred twenty-five dollars.

Sec. 61. That section 9-639, Revised Statutes Supplement, 1990, be amended to read as follows:

9-639. No manufacturer-distributor shall be licensed to conduct any other activity under the Nebraska County and City Lottery Act. No manufacturer-distributor shall hold a license to conduct any other kind of gambling activity which is authorized or regulated under Chapter 9 except as provided in section 9-632. No manufacturer-distributor or employee, agent, or spouse of any manufacturer-distributor shall participate in the conduct or operation of any lottery conducted by any county, city, or village 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-distributor and as provided in sections 9-233.01, 9-235, 9-330, and 9-332.

Sec. 62. That section 9-640, Revised Statutes Supplement, 1990, be amended to read as follows:

9-640. (1) No manufacturer-distributor shall sell, lease, or otherwise provide any lottery equipment or supplies to any person in Nebraska except a county, city, or village licensed to conduct a lottery, a licensed lottery operator, or another licensed manufacturer-distributor. No county, city, or village licensed to conduct a lottery or a licensed lottery operator shall purchase, lease, or otherwise obtain any lottery equipment or supplies except from a manufacturer-distributor licensed in Nebraska.

(2) Nothing in this section shall prohibit (a) a licensed county, city, village, or lottery operator which has purchased or intends to purchase new lottery equipment from selling or donating its old lottery equipment to another licensed county, city, village, or lottery operator if prior written approval has been obtained from the department or (b) a county, city, village, or lottery operator which has voluntarily canceled its license or allowed its license to lapse or which has had its license suspended, canceled, or revoked from selling or donating its lottery equipment to another licensed county, city, village, or lottery operator if prior written approval has been obtained from the department.

Sec. 63. That section 9-642, Revised Statutes Supplement, 1990, be amended to read as follows:

9-642. (1) No individual, partner in a

partnership, or officer or director of a corporation applying for a lottery operator license or licensed as a lottery operator shall be connected with or interested in, directly or indirectly, any person, partnership, firm, corporation, or other party licensed as a distributor, or manufacturer, _____ or manufacturer-distributor under section 9-233.01, 9-235, 9-330, or 9-332, or 9-632.

(2) No member of the governing board or governing official of a county, city, or village shall be connected with or interested in, directly or indirectly, any lottery operator with whom the county, city, or village contracts to conduct its lottery or any manufacturer-distributor.

Sec. 64. Prior to a county, city, village, or lottery operator conducting a lottery at a location other than the location of the lottery operator (1) the county, city, or village shall, by ordinance or resolution, establish qualification standards which shall be met by any individual, sole proprietorship, partnership, or corporation seeking to have its location qualify as an authorized sales outlet location for conducting a lottery and (2) the county, city, or village shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards. A copy of the ordinance or resolution setting forth the qualification standards shall be filed with the department within thirty days of its adoption. A county, city, or village shall notify the department of all approved lottery locations within thirty days of approval.

Sec. 65. That section 9-646, Revised Statutes Supplement, 1990, be amended to read as follows:

9-646. (1) No person under nineteen years of age shall play or participate in any way in any lottery conducted pursuant to the Nebraska County and City Lottery Act.

(2) A county, city, or village which authorizes the conduct of a lottery shall establish by ordinance or resolution the limitations, if any, on the playing of any lottery conducted by the county, city, or village by:

(a) Any member of the governing board, a governing official, or the immediate family of such member or official;

(b) Any lottery operator with whom the county, city, or village contracts to conduct its lottery or his

or her immediate family, employees, or agents; and
(c) Any person having ownership interest in a
sales outlet location or any employee thereof.

Sec. 66. That section 9-649, Revised Statutes Supplement, 1990, be amended to read as follows:

9-649. (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 lottery equipment or supplies which do not conform in all respects to the requirements of the Nebraska County and City Lottery Act and any other specifications imposed by the department by rule and regulation; (b) any lottery equipment or supplies that are being sold without the proper license; (c) any lottery equipment or supplies that have been sold in violation of the act or any rule or regulation adopted and promulgated pursuant to the act; or (d) any lottery equipment or supplies used in connection with any lottery that has been or is being conducted in violation of the act or any rule or regulation adopted and promulgated pursuant to the act.

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

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

(4) The seizure of contraband goods under this section 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, 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 seizure or confiscation of any lottery equipment or supplies pursuant to this section.

Sec. 67. That section 9-650, Revised Statutes Supplement, 1990, be amended to read as follows:

9-650. The gross proceeds of any lottery, less the amount awarded in prizes and any salary, fee, or commission paid to a licensed lottery operator plus any interest on such funds, shall be segregated from any other revenue of any licensed county, city, or village and placed in a separate account of the lottery operator

and the county, city, or village. If a lottery operator is conducting a lottery on behalf of a county, city, or village, such proceeds, including any interest, shall be transferred from the lottery operator's separate account to a separate account of the county, city, or village. Separate records shall be maintained by such licensed county, city, or village. Records required by the Nebraska County and City 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 and gross proceeds from such lottery at any time. Any county, city, or village shall, upon proper written request, deliver all such records to the department or other law enforcement agency for investigation.

Sec. 68. That section 9-653, Revised Statutes Supplement, 1990, be amended to read as follows:

9-653. (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 reports or records submitted by a licensed manufacturer-distributor or the contents of any personal history reports submitted by any licensee or license applicant to the department pursuant to the Nebraska County and City Lottery Act and any rules and regulations adopted and promulgated pursuant to the act.

(2) Nothing in this section shall be construed to prohibit (a) the delivery to a licensee, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any report or record, (b) the publication of statistics so classified as to prevent the identification of particular reports or records, (c) the inspection by the Attorney General, a county attorney, or other legal representative of the state of reports or records submitted by a licensed manufacturer-distributor when information on the 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 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 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 imposition of fines, (g) the release of any application, without the contents of any submitted personal history report, filed with the department to obtain a license to conduct activities under the act, which application shall be deemed a public record, or (h) the release of any report filed by a licensed county, city, village, or lottery operator pursuant to the act, which report shall be deemed a public record.

(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 licensees, or the dates on which such licenses were issued.

(4) Notwithstanding the provisions of 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 reports or records submitted by a licensed manufacturer-distributor pursuant to the act when information on the reports or records is relevant to any action or proceeding instituted or being considered by the United States 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 the provisions of subsection (1) of this section, the Tax Commissioner may permit the other tax officials of this state to inspect 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.

Sec. 69. That section 9-701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-701. Any person engaged in a bona fide business with an established place of business in this state or, in the case of a foreign corporation, with an established place of business in another state may,

solely for the purpose of business promotion and not for profit to such person; conduct a gift enterprise.

For purposes of this section, gift enterprise shall mean a game in which prizes are offered and awarded to participants in such games when no payment is required for participation. Such games may require as a condition of participation the evidence of the purchase of a product or other property, except that the price charged for such product or other property shall be no greater than it would be if no game were involved. (1) For purposes of this section:

(a) Gift enterprise shall mean a contest, game of chance, or game promotion which is conducted within the state or throughout the state and other states in connection with the sale of consumer or trade products or services solely as business promotions and in which the elements of chance and prize are present. Gift enterprise shall not include any scheme using the game of bingo or keno; any nontelecommunication-related, player-activated electronic or electromechanical facsimile of any game of chance; or any slot machine of any kind; and

(b) Operator shall mean any person, firm, corporation, association, or agent or employee thereof who promotes, operates, or conducts a gift enterprise. Operator shall not include any nonprofit organization or any agent or employee thereof.

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

(3) An operator shall not:

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

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

(c) Fail to award prizes offered;

(d) Print, publish, or circulate literature or advertising material used in connection with such gift enterprise which is false, deceptive, or misleading; or

(e) Require an entry fee, a payment or promise of payment of any valuable consideration, or any other consideration as a condition of entering a gift enterprise or winning a prize from the gift enterprise, except that a contest, game of chance, or business promotion may require, as a condition of participation, evidence of the purchase of a product or service as long as the purchase price charged for such product or

service is not greater than it would have been without the contest, game of chance, or business promotion. Filling out an entry blank or the purchase of postage shall not constitute consideration for purposes of this section.

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

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

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

(b) Any person, firm, corporation, association, or agent or employee thereof who violates any provision of this section or any of the rules and regulations promulgated pursuant to this section shall be liable to pay a civil penalty of not more than one thousand dollars imposed by the district court of Lancaster County for each such violation which shall accrue to the permanent school fund. Each day of continued violation shall constitute a separate offense or violation for purposes of this section.

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

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

Sec. 70. That original sections 9-235, 9-264, 9-330, 9-350, 9-354, 9-401, 9-418, 9-419, 9-420, 9-429, 9-436, 9-509, 9-604, and 9-701, Reissue Revised Statutes of Nebraska, 1943, and sections 9-1.101, 9-1.104, 9-1.105, 9-201, 9-203, 9-207.01, 9-214.01, 9-216, 9-226, 9-227, 9-228, 9-233, 9-233.01, 9-235.01, 9-235.02, 9-235.03, 9-236, 9-239, 9-247, 9-250, 9-253, 9-258,

9-261, 9-266, 9-306.01, 9-322, 9-323, 9-324, 9-328, 9-329, 9-329.02, 9-332, 9-340.02, 9-344, 9-345.03, 9-356, 9-421, 9-601, 9-620, 9-623, 9-630, 9-631, 9-632, 9-639, 9-640, 9-642, 9-646, 9-649, 9-650, and 9-653, Revised Statutes Supplement, 1990, are repealed.

Sec. 71. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.