

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 148

Introduced by Jacobson, 42.

Read first time January 09, 2023

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Racetrack Gaming Act; to amend
- 2 sections 2-1205 and 9-1106, Reissue Revised Statutes of Nebraska; to
- 3 change powers and duties of the State Racing and Gaming Commission;
- 4 to change dates related to required market analysis and
- 5 socioeconomic-impact studies; to harmonize provisions; and to repeal
- 6 the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1205, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 2-1205 (1) If the commission is satisfied that its rules and
4 regulations and all provisions of sections 2-1201 to 2-1218 have been and
5 will be complied with, it may issue a license for a period of not more
6 than five years. The license shall set forth the name of the licensee,
7 the place where the races or race meetings are to be held, and the time
8 and number of days during which racing may be conducted by such licensee.
9 Any such license issued shall not be transferable or assignable. The
10 commission shall have the power to revoke any license issued at any time
11 for good cause upon reasonable notice and hearing. No license shall be
12 granted to any corporation or association except upon the express
13 condition that it shall not, by any lease, contract, understanding, or
14 arrangement of whatever kind or nature, grant, assign, or turn over to
15 any person, corporation, or association the operation or management of
16 any racing or race meeting licensed under such sections or of the
17 parimutuel system of wagering described in section 2-1207 or in any
18 manner permit any person, corporation, or association other than the
19 licensee to have any share, percentage, or proportion of the money
20 received for admissions to the racing or race meeting or from the
21 operation of the parimutuel system; and any violation of such conditions
22 shall authorize and require the commission immediately to revoke such
23 license.

24 (2)(a) Any racetrack for which a licensee is issued a license to
25 conduct a race or race meeting under sections 2-1201 to 2-1218 which is
26 in existence and operational as of April 20, 2022, shall:

27 (i) Hold a minimum of five live racing meet days and fifty live
28 horseraces annually beginning January 1, 2026, through December 31, 2030;
29 and

30 (ii) Beginning January 1, 2031, hold a minimum of fifteen live
31 racing meet days and one hundred twenty live horseraces annually.

1 (b) Any racetrack for which a licensee is issued a license to
2 conduct a race or race meeting under sections 2-1201 to 2-1218 which is
3 not in existence and operational until after April 20, 2022, shall:

4 (i) Hold a minimum of one live racing meet day annually for the
5 first three years of operation;

6 (ii) Hold a minimum of five live racing meet days and fifty live
7 horseraces annually for the fourth year of operation through the seventh
8 year of operation; and

9 (iii) Beginning with the eighth year of operation, hold a minimum of
10 fifteen live racing meet days and one hundred twenty live horseraces
11 annually.

12 (c) A racetrack that fails to meet the minimum requirements under
13 this subsection is subject to discipline by the commission, including
14 revocation of the license issued under sections 2-1201 to 2-1218.

15 (3) A racetrack for which a licensee is issued a license to conduct
16 a race or race meeting under sections 2-1201 to 2-1218 in existence on
17 November 1, 2020, which is located in the counties of Adams, Dakota,
18 Douglas, Hall, Lancaster, and Platte, may move such racetrack location to
19 another county in Nebraska that does not have a racetrack one time only,
20 subject to approval by the commission as provided in subdivision (27)(a)
21 ~~(27)~~ of section 9-1106, subsequent to the initial issuance of the market
22 analysis and socioeconomic-impact studies conducted pursuant to section
23 9-1106.

24 Sec. 2. Section 9-1106, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 9-1106 The commission shall:

27 (1) License and regulate authorized gaming operators for the
28 operation of all games of chance authorized pursuant to the Nebraska
29 Racetrack Gaming Act, including adopting, promulgating, and enforcing
30 rules and regulations governing such authorized gaming operators
31 consistent with the act;

1 (2) Regulate the operation of games of chance in order to prevent
2 and eliminate corrupt practices and fraudulent behavior, and thereby
3 promote integrity, security, and honest administration in, and accurate
4 accounting of, the operation of games of chance which are subject to the
5 act;

6 (3) Establish criteria to license applicants for authorized gaming
7 operator licenses and all other types of gaming licenses for other
8 positions and functions incident to the operation of games of chance,
9 including adopting, promulgating, and enforcing rules, regulations, and
10 eligibility standards for such authorized gaming operator licenses,
11 gaming licenses, and positions and functions incident to the operation of
12 games of chance;

13 (4) Charge fees for applications for licenses and for the issuance
14 of authorized gaming operator licenses and all other types of gaming
15 licenses to successful applicants which shall be payable to the
16 commission;

17 (5) Charge fees to authorized gaming operators in an amount
18 necessary to offset the cost of oversight and regulatory services to be
19 provided which shall be payable to the commission;

20 (6) Impose a one-time authorized gaming operator license fee of five
21 million dollars on each authorized gaming operator for each licensed
22 racetrack enclosure payable to the commission. The license fee may be
23 paid over a period of five years with one million dollars due at the time
24 the license is issued;

25 (7) Grant, deny, revoke, and suspend authorized gaming operator
26 licenses and all other types of gaming licenses based upon reasonable
27 criteria and procedures established by the commission to facilitate the
28 integrity, productivity, and lawful conduct of gaming within the state;

29 (8) Grant or deny for cause applications for authorized gaming
30 operator licenses of not less than twenty years in duration, subject to
31 an annual review by the commission and receipt by the commission of a

1 fifty-thousand-dollar annual review fee, with no more than one such
2 authorized gaming operator license granted for any licensed racetrack
3 enclosure within the state;

4 (9) Conduct background investigations of applicants for authorized
5 gaming operator licenses and all other types of gaming licenses;

6 (10) Adopt and promulgate rules and regulations for the standards of
7 manufacture of gaming equipment;

8 (11) Inspect the operation of any authorized gaming operator
9 conducting games of chance for the purpose of certifying the revenue
10 thereof and receiving complaints from the public;

11 (12) Issue subpoenas for the attendance of witnesses or the
12 production of any records, books, memoranda, documents, or other papers
13 or things at or prior to any hearing as is necessary to enable the
14 commission to effectively discharge its duties;

15 (13) Administer oaths or affirmations as necessary to carry out the
16 act;

17 (14) Have the authority to impose, subject to judicial review,
18 appropriate administrative fines and penalties for each violation of the
19 act or any rules and regulations adopted and promulgated pursuant to the
20 act in an amount not to exceed:

21 (a) For any licensed racetrack enclosure with an authorized gaming
22 operator operating games of chance for one year or less, fifty thousand
23 dollars per violation; or

24 (b) For any licensed racetrack enclosure with an authorized gaming
25 operator operating games of chance for more than one year, three times
26 the highest daily amount of gross receipts derived from wagering on games
27 of chance during the twelve months preceding the violation at such
28 licensed racetrack enclosure gaming facility per violation;

29 (15) Collect and remit administrative fines and penalties collected
30 under this section to the State Treasurer for distribution in accordance
31 with Article VII, section 5, of the Constitution of Nebraska;

1 (16) Adopt and promulgate rules and regulations for any gaming taxes
2 assessed to authorized gaming operators;

3 (17) Collect and account for any gaming taxes assessed to authorized
4 gaming operators and remit such taxes to the State Treasurer or county
5 treasurer as required by Nebraska law;

6 (18) Promote treatment of gaming-related behavioral disorders;

7 (19) Establish procedures for the governance of the commission;

8 (20) Acquire necessary offices, facilities, counsel, and staff;

9 (21) Establish procedures for an applicant for a staff position to
10 disclose conflicts of interest as part of the application for employment;

11 (22) Establish a process to allow a person to be voluntarily
12 excluded from wagering in any game of chance under the act in accordance
13 with section 9-1118;

14 (23) Remit all license and application fees collected under the
15 Nebraska Racetrack Gaming Act to the State Treasurer for credit to the
16 Racing and Gaming Commission's Racetrack Gaming Fund;

17 ~~(24)(a)~~ (24) Conduct or cause to be conducted a statewide
18 horseracing market analysis to study the racing market as it currently
19 exists across the state and within (i) the locations in Nebraska of the
20 racetracks in Adams, Dakota, Douglas, Hall, Lancaster, and Platte
21 counties as of the date of the market analysis and (ii) any other
22 location described in subdivision (27)(b) of this section. Such market
23 analysis shall be completed as soon as practicable but not later than
24 January 1, ~~2030~~ 2025, and every five years thereafter and shall be
25 submitted electronically to the General Affairs Committee of the
26 Legislature and to the Governor.

27 (b) The ~~Such~~ market analysis shall examine the market potential and
28 make recommendations involving:

29 (i) ~~(a)~~ The number of live racing days per track, number of races
30 run, and number of horses that should be entered per race;

31 (ii) ~~(b)~~ The number of Nebraska-bred horses available in the market

1 for running races, including foals dropped in the state for the past
2 three years at the time of the market analysis;

3 (iii) ~~(c)~~ The circuit scheduled in the state and if any overlapping
4 dates would be beneficial to the circuit and market as a whole;

5 (iv) ~~(d)~~ The total number of horses available for the total annual
6 schedule, with separate analysis for thoroughbred races and quarterhorse
7 races;

8 (v) ~~(e)~~ The purse money available per race and per track;

9 (vi) ~~(f)~~ The strength of the potential and ongoing simulcast market;

10 (vii) ~~(g)~~ The staffing patterns and problems that exist at each
11 track, including unfilled positions;

12 (viii) ~~(h)~~ The positive and negative effects, including financial,
13 on each existing racetrack at the time of the market analysis in the
14 event the commission approves a new racetrack application;

15 (ix) ~~(i)~~ The potential to attract new owners and horses from other
16 states;

17 (x) ~~(j)~~ The market potential for expansion at each licensed
18 racetrack enclosure to the live race meet days and the number of live
19 horseraces required by section 2-1205, and the room for expansion, if
20 any, for additional licensed racetrack enclosures into the market in
21 Nebraska and the locations most suitable for such expansion; and

22 (xi) ~~(k)~~ Any other data and analysis required by the commission;

23 (25)(a) ~~(25)~~ Conduct or cause to be conducted a statewide casino
24 gaming market analysis study across the state and within (i) each
25 location of a racetrack in Adams, Dakota, Douglas, Hall, Lancaster, and
26 Platte counties and (ii) any other location described in subdivision (27)
27 (b) of this section. Such market analysis study shall be completed as
28 soon as practicable but not later than January 1, 2030 ~~2025~~, and every
29 five years thereafter and shall be submitted electronically to the
30 General Affairs Committee of the Legislature and to the Governor.

31 (b) The market analysis study shall include:

1 (i) ~~(a)~~ A comprehensive assessment of the potential casino gaming
2 market conditions;

3 (ii) ~~(b)~~ An evaluation of the effects on the Nebraska market from
4 competitive casino gaming locations outside of the state;

5 (iii) ~~(c)~~ Information identifying underperforming or underserved
6 markets within Nebraska;

7 (iv) ~~(d)~~ A comprehensive study of potential casino gaming revenue in
8 Nebraska; and

9 (v) ~~(e)~~ Any other data and analysis required by the commission;

10 (26)(a) ~~(26)~~ Conduct or cause to be conducted a statewide
11 socioeconomic-impact study of horseracing and casino gaming across the
12 state and (i) at each licensed racetrack enclosure and gaming facility in
13 Adams, Dakota, Douglas, Hall, Lancaster, and Platte counties and (ii) in
14 any other location described in subdivision (27)(b) of this section. Such
15 socioeconomic-impact study shall be completed as soon as practicable but
16 not later than January 1, 2030 ~~2025~~, and shall be submitted
17 electronically to the General Affairs Committee of the Legislature and to
18 the Governor.

19 (b) The study shall include:

20 (i) ~~(a)~~ Information on financial and societal impacts of horseracing
21 and casino gaming, including crime and local businesses;

22 (ii) ~~(b)~~ An analysis of problem gambling within the state; and

23 (iii) ~~(c)~~ A comparison of the economy of counties which contain a
24 licensed racetrack enclosure operating games of chance and counties which
25 do not contain such a licensed racetrack enclosure as of the date of the
26 study, which comparison shall include:

27 (A) ~~(i)~~ The population of such counties;

28 (B) ~~(ii)~~ Jobs created by each licensed racetrack enclosure operating
29 games of chance in such counties;

30 (C) ~~(iii)~~ Unemployment rates in such counties;

31 (D) ~~(iv)~~ Information on family and household income in such

1 counties;

2 (E) ~~(v)~~ Retail sales in such counties;

3 (F) ~~(vi)~~ Property values in such counties;

4 (G) ~~(vii)~~ An analysis of the impact on community services, including
5 police protection expenditures, fire protection expenditures, road,
6 bridge, and sidewalk expenditures, and capital project expenditures in
7 such counties;

8 (H) ~~(viii)~~ Impact on community health in such counties;

9 (I) ~~(ix)~~ Divorce rates in such counties;

10 (J) ~~(x)~~ Information on available education and education levels in
11 such counties;

12 (K) ~~(xi)~~ Life expectancy in such counties;

13 (L) ~~(xii)~~ Homelessness in such counties; and

14 (M) ~~(xiii)~~ Any other data and analysis required by the commission;

15 (27)(a) Except as otherwise provided in subdivision (b) of this
16 section, approve ~~(27) Approve~~ or deny an application for any licensed
17 racetrack enclosure ~~which is~~ not in existence or operational as of April
18 20, 2022, or any licensed racetrack enclosure in existence and
19 operational as of November 1, 2020, that applies to move such licensed
20 racetrack enclosure pursuant to section 2-1205, on the basis of the
21 placement and location of such licensed racetrack enclosure and based on
22 the market as it exists as of the most recent issuance of the statewide
23 horseracing market analysis, statewide casino gaming market analysis, and
24 statewide socioeconomic-impact studies conducted by the commission
25 pursuant to this section.

26 (b) Approve or deny an application for any licensed racetrack
27 enclosure not in existence on November 1, 2020, prior to the issuance of
28 the statewide horseracing market analysis, statewide casino gaming market
29 analysis, and statewide socioeconomic-impact studies conducted by the
30 commission pursuant to this section if the proposed licensed racetrack
31 enclosure is located west of the one hundredth meridian in Nebraska.

1 (c) ~~Deny~~ The commission shall deny a licensed racetrack enclosure or
2 gaming operator license application if it finds that approval of such
3 application in such placement and location would be detrimental to the
4 racing or gaming market that exists across the state based on the most
5 recent statewide horseracing market analysis, statewide casino gaming
6 market analysis, and statewide socioeconomic-impact studies; and

7 (28) Do all things necessary and proper to carry out its powers and
8 duties under the Nebraska Racetrack Gaming Act, including the adoption
9 and promulgation of rules and regulations and such other actions as
10 permitted by the Administrative Procedure Act.

11 Sec. 3. Original sections 2-1205 and 9-1106, Reissue Revised
12 Statutes of Nebraska, are repealed.