

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 862

Introduced by Larson, 40.

Read first time January 11, 2016

Committee:

1 A BILL FOR AN ACT relating to gambling; to amend sections 28-1101 and
2 28-1105, Reissue Revised Statutes of Nebraska; to define and
3 redefine terms; to provide an exception for conducting or
4 participating in fantasy contests as prescribed; to change a
5 provision relating to the possession of gambling records; and to
6 repeal the original sections.

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

1 Section 1. Section 28-1101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-1101 As used in this article, unless the context otherwise
4 requires:

5 (1) A person advances gambling activity if, acting other than as a
6 player, he or she engages in conduct that materially aids any form of
7 gambling activity. Conduct of this nature includes, but shall not be
8 limited to, conduct directed toward (a) the creation or establishment of
9 the particular game, contest, scheme, device, or activity involved, (b)
10 the acquisition or maintenance of premises, paraphernalia, equipment, or
11 apparatus therefor, or (c) engaging in the procurement, sale, or offering
12 for sale within this state of any chance, share, or interest in a lottery
13 of another state or government whether or not such chance, share, or
14 interest is an actual lottery ticket, receipt, contingent promise to pay,
15 order to purchase, or other record of such interest except as provided in
16 the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle
17 Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
18 Raffle Act, the State Lottery Act, or section 9-701. Conducting or
19 participating in a fantasy contest does not constitute advancing gambling
20 activity;

21 (2) Bookmaking shall mean advancing gambling activity by unlawfully
22 accepting bets from members of the public as a business upon the outcome
23 of future contingent events;

24 (3) A person profits from gambling activity if, other than as a
25 player, he or she accepts or receives money or other property pursuant to
26 an agreement or understanding with any person whereby he or she
27 participates or is to participate in the proceeds of gambling activity;

28 (4) A person engages in gambling if he or she bets something of
29 value upon the outcome of a future event, which outcome is determined by
30 an element of chance, or upon the outcome of a game, contest, or
31 election, or conducts or participates in any bingo, lottery by the sale

1 of pickle cards, lottery, raffle, gift enterprise, or other scheme not
2 authorized or conducted in accordance with the Nebraska Bingo Act, the
3 Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle
4 Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
5 Raffle Act, the State Lottery Act, or section 9-701, but a person does
6 not engage in gambling by:

7 (a) Entering into a lawful business transaction;

8 (b) Playing an amusement device or a coin-operated mechanical game
9 which confers as a prize an immediate, unrecorded right of replay not
10 exchangeable for something of value;

11 (c) Conducting or participating in a prize contest; ~~or~~

12 (d) Conducting or participating in a fantasy contest; or

13 (e) (d) Conducting or participating in any bingo, lottery by the sale
14 of pickle cards, lottery, raffle, or gift enterprise conducted in
15 accordance with the Nebraska Bingo Act, the Nebraska County and City
16 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
17 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
18 Lottery Act, or section 9-701;

19 (5) Fantasy contest means any fantasy or simulated game or contest
20 in which:

21 (a) Winning participants are eligible to receive cash or any other
22 item of value;

23 (b) The value of all prizes and awards offered are established and
24 publicized to the participants prior to the game or contest;

25 (c) All winning outcomes reflect the relative knowledge and skill of
26 the participants and are determined predominantly by accumulated
27 statistical results of the performance of individuals, including athletes
28 in the case of sports events; and

29 (d) No winning outcome is based on the score, the point spread, or
30 any performance or performances of any single actual team or combination
31 of such teams or based solely on any single performance of an individual

1 athlete or player in any single actual event;

2 (6 5) Gambling device shall mean any device, machine, paraphernalia,
3 writing, paper, instrument, article, or equipment that is used or usable
4 for engaging in gambling, whether that activity consists of gambling
5 between persons or gambling by a person involving the playing of a
6 machine. Gambling device shall also include any mechanical gaming device,
7 computer gaming device, electronic gaming device, or video gaming device
8 which has the capability of awarding something of value, free games
9 redeemable for something of value, instant-win tickets which also provide
10 the possibility of participating in a subsequent drawing or event, or
11 tickets or stubs redeemable for something of value, except as authorized
12 in the furtherance of parimutuel wagering. Supplies, equipment, cards,
13 tickets, stubs, and other items used in any bingo, lottery by the sale of
14 pickle cards, other lottery, raffle, or gift enterprise conducted in
15 accordance with the Nebraska Bingo Act, the Nebraska County and City
16 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
17 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State
18 Lottery Act, or section 9-701 or used in any fantasy contest are not
19 gambling devices within this definition;

20 (7 6) Something of value shall mean any money or property, any
21 token, object, or article exchangeable for money or property, or any form
22 of credit or promise directly or indirectly contemplating transfer of
23 money or property or of any interest therein, or involving extension of a
24 service or entertainment; and

25 (8 7) Prize contest shall mean any competition in which one or more
26 competitors are awarded something of value as a consequence of winning or
27 achieving a certain result in the competition and (a) the value of such
28 awards made to competitors participating in the contest does not depend
29 upon the number of participants in the contest or upon the amount of
30 consideration, if any, paid for the opportunity to participate in the
31 contest or upon chance and (b) the value or identity of such awards to be

1 made to competitors is published before the competition begins.

2 Sec. 2. Section 28-1105, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 28-1105 (1) A person commits the offense of possession of gambling
5 records if, other than as a player, he or she knowingly possesses any
6 writing, paper, instrument, or article which is:

7 (a) Of a kind commonly used in the operation or promotion of a
8 bookmaking scheme or enterprise and such writing, paper, instrument, or
9 article has been used for the purpose of recording, memorializing, or
10 registering any bet, wager, or other gambling information; or

11 (b) Of a kind commonly used in the operation, promotion, or playing
12 of a lottery or mutuel scheme or enterprise or other scheme not conducted
13 pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery
14 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
15 Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery
16 Act, ~~or section 9-701, or subdivision (5) of section 28-1101,~~ and such
17 writing, paper, instrument, or article has been used for the purpose of
18 recording, memorializing, or registering any bet, wager, or other
19 gambling information not permitted by such acts or section.

20 (2) Possession of gambling records in the first degree is a Class II
21 misdemeanor.

22 Sec. 3. Original sections 28-1101 and 28-1105, Reissue Revised
23 Statutes of Nebraska, are repealed.