

[Nebraska State Statutes](#)

Mechanical Amusement Device Tax Act

Nebraska Department of Revenue

[Taxpayer Assistance Office](#)

800-742-7474 or 402-471-5729

77-3001. Terms, defined.

For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:

(1) Person means an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, lessee, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(2) **Mechanical amusement device means** any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. The term does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the Department of Revenue pursuant to section [9-345.03](#), or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(3) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(4) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(5) Whenever in the act, the words machine or device are used, they refer to mechanical amusement device; and

(6) Whenever in the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural and in the plural include the singular.

Source:Laws 1969, c. 635, § 1, p. 2541; Laws 1977, LB 353, § 1; Laws 1993, LB 121, § 514; Laws 1997, LB 317, § 1.

Annotations

Hourly fee pool tables that are not coin operated are excluded from the definition of "mechanical amusement device" in subsection (2) of this section. Because in regard to the legitimate purposes of the Mechanical Amusement Device Tax Act, a substantial difference of situation or circumstance exists between coin-operated amusement devices and other forms of amusement for which an hourly fee is collected, the act is not "special legislation" in violation of Neb. Const. Article III, section 18. *Big John's Billiards, Inc. v. Balka*, 260 Neb. 702, 619 N.W.2d 444 (2000).

77-3002. Operator; license; application; limitations; renewal; fees; service of process.

(1) Any operator shall be required to procure an annual license from the Tax Commissioner permitting him or her to operate machines or devices within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, except that if the applicant (a) is not of good character and reputation in the community in which he or she resides, (b) has been convicted of or has pleaded guilty to a felony under the laws of the State of Nebraska, any other state, or of the United States, or (c) has been convicted of or has pleaded guilty to being the proprietor of a gambling house, or of any other crime or misdemeanor opposed to decency and morality, no license shall be issued. If the applicant is a corporation whose majority stockholders could not obtain a license, then such corporation shall not be issued a license. If the applicant is an individual, the application shall include the applicant's social security number. Procuring a license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the operation of machines or devices in this state.

(2)(a) For the period beginning July 1, 1998, through December 31, 1999, if the applicant operates ten or more machines, the application shall be accompanied by a

fee of two hundred fifty dollars, and such license will remain in effect until December 31, 1999. If the applicant operates fewer than ten machines, no fee is due. Any licensee that places additional machines into operation during this period which results in a total of ten or more machines in operation becomes subject to the two-hundred-fifty-dollar fee.

(b) Beginning January 1, 2000, the application shall be filed on or before January 1 of each year, and no license fee will be required.

Source: Laws 1969, c. 635, § 3, p. 2542; Laws 1982, LB 928, § 68; Laws 1983, LB 447, § 92; Laws 1997, LB 317, § 2; Laws 1997, LB 752, § 213.

77-3003. Distributor; license; application; limitations; fees.

Any distributor shall be required to procure an annual license from the Tax Commissioner permitting him or her to sell, lease, or deliver possession or custody of a machine or device within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, subject to the same limitations as an operator's license under section [77-3002](#). If the applicant is an individual, the application shall include the applicant's social security number. For applications filed for the period beginning July 1, 1998, through December 31, 1999, such application shall be accompanied by a fee of two hundred fifty dollars, and the license shall remain in effect until December 31, 1999. Beginning January 1, 2000, the application shall be filed on or before January 1 of each year, and no license fee will be required.

Source:Laws 1969, c. 635, § 3, p. 2542; Laws 1982, LB 928, § 68; Laws 1997, LB 317, § 3; Laws 1997, LB 752, § 214.

77-3004. Occupation tax; amount; payment.

(1) An occupation tax is hereby imposed and levied, in the amount and in accordance with the terms and conditions hereafter stated, upon the business of operating mechanical amusement devices within the State of Nebraska for profit or gain either directly or indirectly received. Every person who now or hereafter engages in the business of operating such devices in the State of Nebraska shall pay such tax in the amount and manner specified in this section.

(2) Any operator of a mechanical amusement device within the State of Nebraska shall pay an occupation tax for each machine or device which he or she operates during all of the taxable year. The tax shall be due and payable on January 1 of each year on each machine or device in operation on that date, except that it shall be unlawful to pay any such occupation tax unless the sales or use tax has been paid on such mechanical amusement devices. For every machine or device put into operation on a date subsequent to January 1, and which has not been included in computing the tax imposed and levied by the Mechanical Amusement Device Tax Act, the tax shall be due and payable therefor prior to the time the machine or device is placed in operation. All taxes collected pursuant to the act shall be remitted to the State Treasurer for credit to the General Fund.

(3) The amount of the occupation tax shall be fifty dollars for each machine or device for the period from July 1, 1998, through December 31, 1999, except that for machines placed in operation after April 1, 1999, and before January 1, 2000, the occupation tax shall be twenty-five dollars for each machine or device.

(4) The amount of the occupation tax shall be thirty-five dollars for each machine or device for any period beginning on or after January 1, 2000, except that for machines placed in operation after July 1, and before January 1 of each year, the occupation tax shall be twenty dollars for each machine or device.

Source:Laws 1969, c. 635, § 4, p. 2543; Laws 1977, LB 353, § 2; Laws 1982, LB 928, § 69; Laws 1997, LB 317, § 4.

77-3005. Occupation tax; addition to other taxes and fees.

The occupation tax levied and imposed by the Mechanical Amusement Device Tax Act shall be in addition to any and all taxes or fees, of any form whatsoever, now imposed by the State of Nebraska or any of its subdivisions, upon the business of operating or distributing mechanical amusement devices as defined in section [77-3001](#), or otherwise defined by the subdivisions and municipalities of the State of Nebraska, except that payment of the tax and license fees due and owing on or before the licensing date of each year shall exempt any such mechanical amusement device from the application of the sales tax which would or could otherwise be imposed under the Nebraska Revenue Act of 1967. Nonpayment of the taxes or fees due and owing on or before the licensing date of each year shall render the exemption provided by this section inapplicable and the particular machines or devices shall then be subject to all the provisions of the Nebraska

Revenue Act of 1967, including the penalty provisions pertaining to the owner or operator of such machines or devices.

Source:Laws 1969, c. 635, § 5, p. 2543; Laws 1997, LB 317, § 5.

Cross References

Nebraska Revenue Act of 1967, see section [77-2701](#).

77-3006. Tax Commissioner; administration of act.

The administration of the provisions of sections [77-3001](#) to [77-3011](#) is hereby vested in the Tax Commissioner of the State of Nebraska subject to other provisions of law relating to the Tax Commissioner. The Tax Commissioner may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of the provisions of sections [77-3001](#) to [77-3011](#), and may delegate authority to his representatives to conduct hearings, or perform any other duties imposed under the provisions of sections [77-3001](#) to [77-3011](#).

Source:Laws 1969, c. 635, § 6, p. 2544.

77-3007. Tax; payment; decal; form; display.

(1) The payment of the tax imposed by the provisions of sections [77-3001](#) to [77-3011](#) shall be evidenced by a separate decal for each device signifying payment of the tax, in a form prescribed by the Tax Commissioner.

(2) Every operator shall place such decal in a conspicuous place on each device to denote payment of the tax for each device for the current year.

Source:Laws 1969, c. 635, § 7, p. 2544; Laws 1977, LB 353, § 3.

77-3008. Municipalities; political subdivisions; power to tax.

Nothing in sections [77-3001](#) to [77-3011](#) shall be construed to limit, usurp or repeal any power to tax granted to the subdivisions and municipalities of the State of Nebraska by the laws and Constitution of the State of Nebraska.

Source:Laws 1969, c. 635, § 8, p. 2545.

77-3009. Violations; penalty.

(1) Any person who places a mechanical amusement device in operation in the State of Nebraska without the necessary decal being placed conspicuously upon it or without having obtained the necessary license shall be subject to an administrative penalty of seventy-five dollars for each violation.

(2) Any mechanical amusement device which does not have the necessary decal conspicuously displayed upon it shall be subject to being sealed by the Tax Commissioner or his or her delegate. If such seal is broken prior to payment of the occupation tax upon such device, the device shall be subject to forfeiture and sale by the Tax Commissioner.

(3) Any person violating the Mechanical Amusement Device Tax Act shall be guilty of a Class II misdemeanor. Each day on which any person engages in or conducts the business of operating or distributing the machines or devices subject to the Mechanical Amusement Device Tax Act, without having paid the tax or obtained the required license as provided, shall constitute a separate offense.

Source:Laws 1969, c. 635, § 9, p. 2545; Laws 1977, LB 39, § 245; Laws 1977, LB 353, § 4; Laws 1979, LB 4, § 7; Laws 1997, LB 317, § 6.

77-3010. Violations; prosecution; limitation.

Prosecutions for any violations of sections [77-3001](#) to [77-3011](#) shall be brought by the Attorney General or county attorney in the county in which the violation occurs. Any prosecution for the violation of any of the provisions of sections [77-3001](#) to [77-3011](#) shall be instituted within three years after the commission of the offense.

Source:Laws 1969, c. 635, § 10, p. 2545.

77-3011. Act, how cited.

Sections [77-3001](#) to [77-3011](#) shall be known and may be cited as the Mechanical Amusement Device Tax Act.

Source:Laws 1969, c. 635, § 11, p. 2545.

