

AMENDMENTS TO LB538
(Amendments to AM1278)

Introduced by Lathrop, 12.

1 1. Insert the following new sections:

2 Sec. 4. No cash device shall be operated using a credit card,
3 charge card, or debit card. No person under nineteen years of age shall
4 play or participate in any way in the operation of a cash device. No
5 operator or employee or agent of any operator shall knowingly permit any
6 individual under nineteen years of age to play or participate in any way
7 in the operation of a cash device.

8 Sec. 10. Section 77-5601, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 77-5601 (1) From August 1, 2004, through October 31, 2004, there
11 shall be conducted a tax amnesty program with regard to taxes due and
12 owing that have not been reported to the Department of Revenue. Any
13 person applying for tax amnesty shall pay all unreported taxes that were
14 due on or before April 1, 2004. Any person that applies for tax amnesty
15 and is accepted by the Tax Commissioner shall have any penalties and
16 interest waived on unreported and delinquent taxes notwithstanding any
17 other provisions of law to the contrary.

18 (2) To be eligible for the tax amnesty provided by this section, the
19 person shall apply for amnesty within the amnesty period, file a return
20 for each taxable period for which the amnesty is requested by December
21 31, 2004, if no return has been filed, and pay in full all taxes for
22 which amnesty is sought with the return or within thirty days after the
23 application if a return was filed prior to the amnesty period. Tax
24 amnesty shall not be available for any person that is under civil or
25 criminal audit, investigation, or prosecution for unreported or
26 delinquent taxes by this state or the United States Government on or

1 before April 16, 2004.

2 (3) The department shall not seek civil or criminal prosecution
3 against any person for any taxable period for which amnesty has been
4 granted. The Tax Commissioner shall develop forms for applying for the
5 tax amnesty program, develop procedures for qualification for tax
6 amnesty, and conduct a public awareness campaign publicizing the program.

7 (4) If a person elects to participate in the amnesty program, the
8 election shall constitute an express and irrevocable relinquishment of
9 all administrative and judicial rights to challenge the imposition of the
10 tax or its amount. Nothing in this section shall prohibit the department
11 from adjusting a return as a result of any state or federal audit.

12 (5)(a) Except for any local option sales tax collected and returned
13 to the appropriate municipality and any motor vehicle fuel, diesel fuel,
14 and compressed fuel taxes, which shall be deposited in the Highway Trust
15 Fund or Highway Allocation Fund as provided by law, no less than eighty
16 percent of all revenue received pursuant to the tax amnesty program shall
17 be deposited in the General Fund and ~~;~~ ten percent, not to exceed five
18 hundred thousand dollars, shall be deposited in the Department of Revenue
19 Enforcement Fund; ~~and ten percent, not to exceed five hundred thousand~~
20 ~~dollars, shall be deposited in the Department of Revenue Enforcement~~
21 ~~Technology Fund.~~ Any amount that would otherwise be deposited in the
22 Department of Revenue Enforcement Fund ~~or the Department of Revenue~~
23 ~~Enforcement Technology Fund~~ that is in excess of the five-hundred-
24 thousand-dollar limitation shall be deposited in the General Fund.

25 (b) For fiscal year 2005-06, all proceeds in the Department of
26 Revenue Enforcement Fund shall be appropriated to the department for
27 purposes of employing investigators, agents, and auditors and otherwise
28 increasing personnel for enforcement of the Nebraska Revenue Act of 1967.
29 ~~For fiscal year 2005-06, all proceeds in the Department of Revenue~~
30 ~~Enforcement Technology Fund shall be appropriated to the department for~~
31 ~~the purposes of acquiring lists, software, programming, computer~~

1 ~~equipment, and other technological methods for enforcing the act.~~

2 (c) For fiscal years after fiscal year 2005-06, twenty percent of
3 all proceeds received during the previous calendar year due to the
4 efforts of auditors and investigators hired pursuant to subdivision (5)
5 (b) of this section, not to exceed seven hundred fifty thousand dollars,
6 shall be deposited in the Department of Revenue Enforcement Fund for
7 purposes of employing investigators and auditors or continuing such
8 employment for purposes of increasing enforcement of the act.

9 (d) Ten percent of all proceeds received during each calendar year
10 due to the contracts entered into pursuant to section 77-367 shall be
11 deposited in the Department of Revenue Enforcement Fund for purposes of
12 identifying nonfilers of returns, underreporters, nonpayers of taxes, and
13 improper or fraudulent payments.

14 (6)(a) The department shall prepare a report by April 1, 2005, and
15 by February 1 of each year thereafter detailing the results of the tax
16 amnesty program and the subsequent enforcement efforts. For the report
17 due April 1, 2005, the report shall include (i) the amount of revenue
18 obtained as a result of the tax amnesty program broken down by tax
19 program, (ii) the amount obtained from instate taxpayers and from out-of-
20 state taxpayers, and (iii) the amount obtained from individual taxpayers
21 and from business enterprises.

22 (b) For reports due in subsequent years, the report shall include
23 (i) the number of personnel hired for purposes of subdivision (5)(b) of
24 this section and their duties, (ii) a description of lists, software,
25 programming, computer equipment, and other technological methods acquired
26 ~~pursuant to such subdivision~~ and the purposes of each, and (iii) the
27 amount of new revenue obtained as a result of the new personnel and
28 acquisitions during the prior calendar year, broken down into the same
29 categories as described in subdivision (6)(a) of this section.

30 (7) The Department of Revenue Enforcement Fund is ~~and the Department~~
31 ~~of Revenue Enforcement Technology Fund~~ are created. Transfers may be made

1 from the Department of Revenue Enforcement Fund to the General Fund at
2 the direction of the Legislature. The Department of Revenue Enforcement
3 Fund may receive transfers from the Civic and Community Center Financing
4 Fund at the direction of the Legislature for the purpose of administering
5 the Sports Arena Facility Financing Assistance Act. The Department of
6 Revenue Enforcement Fund shall include any money credited to the fund
7 under the Mechanical Amusement Device Tax Act, and such money shall be
8 used by the department to defray the costs incurred to enforce such act.
9 Any money in the Department of Revenue Enforcement Fund ~~and the~~
10 ~~Department of Revenue Enforcement Technology Fund~~ available for
11 investment shall be invested by the state investment officer pursuant to
12 the Nebraska Capital Expansion Act and the Nebraska State Funds
13 Investment Act. ~~The Department of Revenue Enforcement Technology Fund~~
14 ~~shall terminate on July 1, 2006. Any unobligated money in the fund at~~
15 ~~that time shall be deposited in the General Fund.~~

16 (8) For purposes of this section, taxes mean any taxes collected by
17 the department, including, but not limited to state and local sales and
18 use taxes, individual and corporate income taxes, financial institutions
19 deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel
20 taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

21 2. On page 1, strike lines 11 through 20 and insert the following
22 new subsection:

23 "(2) The owner or operator of a retail establishment who is not a
24 manufacturer, distributor, or seller of mechanical amusement devices as
25 defined under the Mechanical Amusement Device Tax Act shall not be
26 subject to prosecution for possession of a gambling device or entering
27 into a transaction affecting or designed to affect ownership, custody, or
28 use of any gambling device if:

29 (a) Such owner or operator does not own the device and the only
30 connection of the owner or operator to the device is entering into an
31 agreement for payment or profit-sharing in exchange for placement of the

1 device in such owner's or operator's retail establishment; and

2 (b) Such owner or operator does not have actual knowledge that the
3 operation of the device in the owner's or operator's retail establishment
4 constitutes unlawful gambling activity or violates the Mechanical
5 Amusement Device Tax Act."

6 3. On page 4, line 26, after the first "a" insert "cash".

7 4. On page 9, after line 6 insert the following new subsections:

8 "(10)(a) Before any rules and regulations adopted and promulgated to
9 carry out this section become effective, any manufacturer, distributor,
10 or owner may continue to manufacture, sell, transport, place, possess, or
11 enter into a transaction involving (i) cash devices already in operation
12 at an establishment as of May 1, 2019, or (ii) other cash devices that
13 are functionally identical to those already in operation at an
14 establishment as of May 1, 2019.

15 (b) After any rules and regulations adopted and promulgated to carry
16 out this section become effective, until any determination of compliance
17 or noncompliance by the department, any manufacturer, distributor, or
18 owner may continue to manufacture, sell, transport, place, possess, or
19 enter into a transaction involving cash devices described in subdivision
20 (10)(a) of this section if, within ninety days after the date when any
21 such rules and regulations become effective, the manufacturer or
22 distributor files an application with the department for such a
23 determination.

24 (c) If a manufacturer or distributor receives a determination from
25 the department that a device described in subdivision (10)(a) of this
26 section is not in compliance with the Mechanical Amusement Device Tax
27 Act, such manufacturer or distributor shall have thirty days after the
28 issuance of that determination to remove any such device from operation
29 in Nebraska.

30 (11) Application fees collected under subsection (2) of this section
31 and annual decal fees collected under section (8) of this section shall

1 be remitted to the State Treasurer for credit to the Department of
2 Revenue Enforcement Fund."

3 5. On page 10, line 15, strike "section 3" and insert "sections 3
4 and 4"; and in line 19 strike "and 77-3011" and insert "77-3011, and
5 77-5601".

6 6. Renumber the remaining sections accordingly.