

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 798

Introduced by Brandt, 32.

Read first time January 08, 2020

Committee:

- 1 A BILL FOR AN ACT relating to the state lottery; to amend sections 9-823
- 2 and 84-712.05, Revised Statutes Supplement, 2019; to provide for the
- 3 anonymity of winners of certain prizes; to change public records
- 4 disclosure provisions as prescribed; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-823, Revised Statutes Supplement, 2019, is
2 amended to read:

3 9-823 The Tax Commissioner shall adopt and promulgate rules and
4 regulations necessary to carry out the State Lottery Act. The rules and
5 regulations shall include provisions relating to the following:

6 (1) The lottery games to be conducted subject to the following
7 conditions:

8 (a) No lottery game shall use the theme of dog racing or
9 horseracing;

10 (b) In any lottery game utilizing tickets, each ticket in such game
11 shall bear a unique number distinguishing it from every other ticket in
12 such lottery game;

13 (c) No name of an elected official shall appear on the tickets of
14 any lottery game; and

15 (d) In any instant-win game, the overall estimated odds of winning
16 some prize shall be printed on each ticket and shall also be available at
17 the office of the division at the time such lottery game is offered for
18 sale to the public;

19 (2) The retail sales price for lottery tickets;

20 (3) The types and manner of payment of prizes to be awarded for
21 winning tickets in lottery games;

22 (4) The method for determining winners, the frequency of drawings,
23 if any, or other selection of winning tickets subject to the following
24 conditions:

25 (a) No lottery game shall be based on the results of a dog race,
26 horserace, or other sports event;

27 (b) If the lottery game utilizes the drawing of winning numbers, a
28 drawing among entries, or a drawing among finalists (i) the drawings
29 shall be witnessed by an independent certified public accountant, (ii)
30 any equipment used in the drawings shall be inspected by the independent
31 certified public accountant and an employee of the division or designated

1 agent both before and after the drawing, and (iii) the drawing shall be
2 recorded on videotape with an audio track; and

3 (c) Drawings in an instant-win game, other than grand prize drawings
4 or other runoff drawings, shall not be held more often than weekly.
5 Drawings or selections in an online game shall not be held more often
6 than daily;

7 (5) The validation and manner of payment of prizes to the holders of
8 winning tickets subject to the following conditions:

9 (a) The prize shall be given to the person who presents a winning
10 ticket, except that for awards in excess of five hundred dollars, the
11 winner shall also provide his or her social security number or tax
12 identification number;

13 (b) A prize may be given to only one person per winning ticket,
14 except that a prize shall be divided between the holders of winning
15 tickets if there is more than one winning ticket per prize;

16 (c) For the convenience of the public, the director may authorize
17 lottery game retailers to pay winners of up to five hundred dollars after
18 performing validation procedures on their premises appropriate to the
19 lottery game involved;

20 (d) No prize shall be paid to any person under nineteen years of
21 age, and any prize resulting from a lottery ticket held by a person under
22 nineteen years of age shall be awarded to the parent or guardian or
23 custodian of the person under the Nebraska Uniform Transfers to Minors
24 Act;

25 (e) No prize shall be paid for tickets that are stolen, counterfeit,
26 altered, fraudulent, unissued, produced or issued in error, unreadable,
27 not received or not recorded by the division by acceptable deadlines,
28 lacking in captions that confirm and agree with the lottery play symbols
29 as appropriate to the lottery game involved, or not in compliance with
30 additional specific rules and regulations and public or confidential
31 validation and security tests appropriate to the particular lottery game

1 involved;

2 (f) No particular prize in any lottery game shall be paid more than
3 once. In the event of a binding determination by the director that more
4 than one claimant is entitled to a particular prize, the sole right of
5 such claimants shall be the award to each of them of an equal share in
6 the prize;~~and~~

7 (g) After the expiration of the claim period for prizes for each
8 lottery game, the director shall make available a detailed tabulation of
9 the total number of tickets actually sold in the lottery game and the
10 total number of prizes of each prize denomination that were actually
11 claimed and paid; and

12 (h) The division and any lottery contractor shall not publicly
13 disclose the identity of any person awarded a prize of three hundred
14 thousand dollars or more except upon written authorization of such
15 person;

16 (6) Requirements for eligibility for participation in grand prize
17 drawings or other runoff drawings, including requirements for submission
18 of evidence of eligibility;

19 (7) The locations at which tickets may be sold except that no ticket
20 may be sold at a retail liquor establishment holding a license for the
21 sale of alcoholic liquor at retail for consumption on the licensed
22 premises unless the establishment holds a Class C liquor license with a
23 sampling designation as provided in subsection (6) of section 53-124;

24 (8) The method to be used in selling tickets;

25 (9) The contracting with persons as lottery game retailers to sell
26 tickets and the manner and amount of compensation to be paid to such
27 retailers;

28 (10)(a) The form and type of marketing of informational and
29 educational material.

30 (b) Beginning on September 1, 2019, all lottery advertisements shall
31 disclose the odds of winning the prize with the largest value for any

1 lottery game in a clear and conspicuous manner. Such disclosure shall be
2 in a font size of not less than thirty-five percent of the largest font
3 used in the advertisement, except that for any online advertisement, such
4 disclosure shall be in a font size of at least ten points. This
5 subdivision (b) shall not apply to advertisements printed, distributed,
6 broadcast, or otherwise disseminated or conducted prior to September 1,
7 2019;

8 (11) Any arrangements or methods to be used in providing proper
9 security in the storage and distribution of tickets or lottery games; and

10 (12) All other matters necessary or desirable for the efficient and
11 economical operation and administration of lottery games and for the
12 convenience of the purchasers of tickets and the holders of winning
13 tickets.

14 Sec. 2. Section 84-712.05, Revised Statutes Supplement, 2019, is
15 amended to read:

16 84-712.05 The following records, unless publicly disclosed in an
17 open court, open administrative proceeding, or open meeting or disclosed
18 by a public entity pursuant to its duties, may be withheld from the
19 public by the lawful custodian of the records:

20 (1) Personal information in records regarding a student, prospective
21 student, or former student of any educational institution or exempt
22 school that has effectuated an election not to meet state approval or
23 accreditation requirements pursuant to section 79-1601 when such records
24 are maintained by and in the possession of a public entity, other than
25 routine directory information specified and made public consistent with
26 20 U.S.C. 1232g, as such section existed on February 1, 2013, and
27 regulations adopted thereunder;

28 (2) Medical records, other than records of births and deaths and
29 except as provided in subdivision (5) of this section, in any form
30 concerning any person; records of elections filed under section 44-2821;
31 and patient safety work product under the Patient Safety Improvement Act;

1 (3) Trade secrets, academic and scientific research work which is in
2 progress and unpublished, and other proprietary or commercial information
3 which if released would give advantage to business competitors and serve
4 no public purpose;

5 (4) Records which represent the work product of an attorney and the
6 public body involved which are related to preparation for litigation,
7 labor negotiations, or claims made by or against the public body or which
8 are confidential communications as defined in section 27-503;

9 (5) Records developed or received by law enforcement agencies and
10 other public bodies charged with duties of investigation or examination
11 of persons, institutions, or businesses, when the records constitute a
12 part of the examination, investigation, intelligence information, citizen
13 complaints or inquiries, informant identification, or strategic or
14 tactical information used in law enforcement training, except that this
15 subdivision shall not apply to records so developed or received:

16 (a) Relating to the presence of and amount or concentration of
17 alcohol or drugs in any body fluid of any person; or

18 (b) Relating to the cause of or circumstances surrounding the death
19 of an employee arising from or related to his or her employment if, after
20 an investigation is concluded, a family member of the deceased employee
21 makes a request for access to or copies of such records. This subdivision
22 does not require access to or copies of informant identification, the
23 names or identifying information of citizens making complaints or
24 inquiries, other information which would compromise an ongoing criminal
25 investigation, or information which may be withheld from the public under
26 another provision of law. For purposes of this subdivision, family member
27 means a spouse, child, parent, sibling, grandchild, or grandparent by
28 blood, marriage, or adoption;

29 (6) Appraisals or appraisal information and negotiation records
30 concerning the purchase or sale, by a public body, of any interest in
31 real or personal property, prior to completion of the purchase or sale;

1 (7) Personal information in records regarding personnel of public
2 bodies other than salaries and routine directory information;

3 (8) Information solely pertaining to protection of the security of
4 public property and persons on or within public property, such as
5 specific, unique vulnerability assessments or specific, unique response
6 plans, either of which is intended to prevent or mitigate criminal acts
7 the public disclosure of which would create a substantial likelihood of
8 endangering public safety or property; computer or communications network
9 schema, passwords, and user identification names; guard schedules; lock
10 combinations; or public utility infrastructure specifications or design
11 drawings the public disclosure of which would create a substantial
12 likelihood of endangering public safety or property, unless otherwise
13 provided by state or federal law;

14 (9) Information that relates details of physical and cyber assets of
15 critical energy infrastructure or critical electric infrastructure,
16 including (a) specific engineering, vulnerability, or detailed design
17 information about proposed or existing critical energy infrastructure or
18 critical electric infrastructure that (i) relates details about the
19 production, generation, transportation, transmission, or distribution of
20 energy, (ii) could be useful to a person in planning an attack on such
21 critical infrastructure, and (iii) does not simply give the general
22 location of the critical infrastructure and (b) the identity of personnel
23 whose primary job function makes such personnel responsible for (i)
24 providing or granting individuals access to physical or cyber assets or
25 (ii) operating and maintaining physical or cyber assets, if a reasonable
26 person, knowledgeable of the electric utility or energy industry, would
27 conclude that the public disclosure of such identity could create a
28 substantial likelihood of risk to such physical or cyber assets.
29 Subdivision (9)(b) of this section shall not apply to the identity of a
30 chief executive officer, general manager, vice president, or board member
31 of a public entity that manages critical energy infrastructure or

1 critical electric infrastructure. The lawful custodian of the records
2 must provide a detailed job description for any personnel whose identity
3 is withheld pursuant to subdivision (9)(b) of this section. For purposes
4 of subdivision (9) of this section, critical energy infrastructure and
5 critical electric infrastructure mean existing and proposed systems and
6 assets, including a system or asset of the bulk-power system, whether
7 physical or virtual, the incapacity or destruction of which would
8 negatively affect security, economic security, public health or safety,
9 or any combination of such matters;

10 (10) The security standards, procedures, policies, plans,
11 specifications, diagrams, access lists, and other security-related
12 records of the Lottery Division of the Department of Revenue and those
13 persons or entities with which the division has entered into contractual
14 relationships. Nothing in this subdivision shall allow the division to
15 withhold from the public any information relating to:

16 (a) Amounts ~~amounts~~ paid persons or entities with which the division
17 has entered into contractual relationships;

18 (b) Amounts ~~amounts~~ of prizes paid; or

19 (c) The ~~the~~ name of any ~~the~~ prize winner awarded a prize of less
20 than three hundred thousand dollars ~~and~~ the city, village, or county
21 where the prize winner resides;

22 (11) With respect to public utilities and except as provided in
23 sections 43-512.06 and 70-101, personally identified private citizen
24 account payment and customer use information, credit information on
25 others supplied in confidence, and customer lists;

26 (12) Records or portions of records kept by a publicly funded
27 library which, when examined with or without other records, reveal the
28 identity of any library patron using the library's materials or services;

29 (13) Correspondence, memoranda, and records of telephone calls
30 related to the performance of duties by a member of the Legislature in
31 whatever form. The lawful custodian of the correspondence, memoranda, and

1 records of telephone calls, upon approval of the Executive Board of the
2 Legislative Council, shall release the correspondence, memoranda, and
3 records of telephone calls which are not designated as sensitive or
4 confidential in nature to any person performing an audit of the
5 Legislature. A member's correspondence, memoranda, and records of
6 confidential telephone calls related to the performance of his or her
7 legislative duties shall only be released to any other person with the
8 explicit approval of the member;

9 (14) Records or portions of records kept by public bodies which
10 would reveal the location, character, or ownership of any known
11 archaeological, historical, or paleontological site in Nebraska when
12 necessary to protect the site from a reasonably held fear of theft,
13 vandalism, or trespass. This section shall not apply to the release of
14 information for the purpose of scholarly research, examination by other
15 public bodies for the protection of the resource or by recognized tribes,
16 the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or
17 the federal Native American Graves Protection and Repatriation Act;

18 (15) Records or portions of records kept by public bodies which
19 maintain collections of archaeological, historical, or paleontological
20 significance which reveal the names and addresses of donors of such
21 articles of archaeological, historical, or paleontological significance
22 unless the donor approves disclosure, except as the records or portions
23 thereof may be needed to carry out the purposes of the Unmarked Human
24 Burial Sites and Skeletal Remains Protection Act or the federal Native
25 American Graves Protection and Repatriation Act;

26 (16) Library, archive, and museum materials acquired from
27 nongovernmental entities and preserved solely for reference, research, or
28 exhibition purposes, for the duration specified in subdivision (16)(b) of
29 this section, if:

30 (a) Such materials are received by the public custodian as a gift,
31 purchase, bequest, or transfer; and

1 (b) The donor, seller, testator, or transferor conditions such gift,
2 purchase, bequest, or transfer on the materials being kept confidential
3 for a specified period of time;

4 (17) Job application materials submitted by applicants, other than
5 finalists or a priority candidate for a position described in section
6 85-106.06 selected using the enhanced public scrutiny process in section
7 85-106.06, who have applied for employment by any public body as defined
8 in section 84-1409. For purposes of this subdivision, (a) job application
9 materials means employment applications, resumes, reference letters, and
10 school transcripts and (b) finalist means any applicant who is not an
11 applicant for a position described in section 85-106.06 and (i) who
12 reaches the final pool of applicants, numbering four or more, from which
13 the successful applicant is to be selected, (ii) who is an original
14 applicant when the final pool of applicants numbers less than four, or
15 (iii) who is an original applicant and there are four or fewer original
16 applicants;

17 (18)(a) Records obtained by the Public Employees Retirement Board
18 pursuant to section 84-1512 and (b) records maintained by the board of
19 education of a Class V school district and obtained by the board of
20 trustees for the administration of a retirement system provided for under
21 the Class V School Employees Retirement Act pursuant to section 79-989;

22 (19) Social security numbers; credit card, charge card, or debit
23 card numbers and expiration dates; and financial account numbers supplied
24 to state and local governments by citizens;

25 (20) Information exchanged between a jurisdictional utility and city
26 pursuant to section 66-1867;

27 (21) Draft records obtained by the Nebraska Retirement Systems
28 Committee of the Legislature and the Governor from Nebraska Public
29 Employees Retirement Systems pursuant to subsection (4) of section
30 84-1503;

31 (22) All prescription drug information submitted pursuant to section

1 71-2454, all data contained in the prescription drug monitoring system,
2 and any report obtained from data contained in the prescription drug
3 monitoring system; and

4 (23) Information obtained by any government entity, whether federal,
5 state, county, or local, regarding firearm registration, possession,
6 sale, or use that is obtained for purposes of an application permitted or
7 required by law or contained in a permit or license issued by such
8 entity. Such information shall be available upon request to any federal,
9 state, county, or local law enforcement agency.

10 Sec. 3. Original sections 9-823 and 84-712.05, Revised Statutes
11 Supplement, 2019, are repealed.