

NEBRASKA DEPARTMENT OF REVENUE
TITLE 316 NEB. ADMIN. CODE, CH. 54
MECHANICAL AMUSEMENT DEVICE
CASH DEVICE REGULATIONS

Explanatory Statement

Summary – In 2019, the Nebraska Legislature enacted LB 538 to regulate skill machines, also known as cash devices, and to provide testing and authority to determine if they are legal skill machines or illegal gambling devices. These are entirely new regulations within the chapter on mechanical amusement devices to achieve this result.

Detailed Summary:

Reg-54-100 Authorization to regulate cash devices:

This regulation merely states that DOR has adopted all of these regulations to carry out the provisions set forth in LB 538. It also provides DOR the option to waive requirements of the regulations when the situation is appropriate, based upon written justification. DOR believes that this will allow the regulations as a whole to be implemented effectively with both the regulatory interest of DOR and the taxpayers' interest in mind.

Reg-54-101 Definitions:

The definitions lay out many, but not all, items that are relevant to the operation of cash devices. These definitions include device specific terms, operational terms, and general terms involving DOR.

Reg-54-102 General restrictions:

The general restrictions include items that are provided for in the statutes such as licensing of entities, age limits for participants, and that devices are not to accept credit cards. It also sets forth requirements for placing of decals on devices, as well as phone number for the Tip Line for reporting issues. Further restrictions are detailed to carry out the Act and LB 538 in such a way that protects the public's interest and monitor and assure compliance with the requirements of the Act. This includes restricting the operating hours of machines to the normal business hours of the location, restricting wages to cash only, and defining what may be considered in the calculation of square footage. This regulation is necessary to effectively carry out LB 538 and the Act. This regulation also provides for investigations by DOR to determine compliance with the Act and allows administrative actions to enforce the Act.

Reg-54-103 Determining when a device is a legal cash device:

This regulation details what DOR may rely on to determine whether a game is one of skill or chance. The majority of the language contained in this section is statutory. Additional language was added to clarify what would be considered a game of skill.

Reg-54-104 Cash device standards:

This regulation sets for the standards for cash device software and hardware based upon standards set by Gaming Laboratories International, a leader in the field. Additional restrictions contained in this regulation will help DOR's compliance and investigatory staff to verify all devices in the field follow the same standards and are approved devices. To comply with the statute and consistent with the requirement that these be games of skill and not chance, cash devices cannot resemble legal charitable gaming or illegal casino games. Accurate recordkeeping and backup is required.

Reg-54-105 Application:

There are two major application processes identified from LB 538 which are described in this regulation. The first application process and requirements identified are for having a device approved by the Department. After a device has been approved then the process and requirements are outlined for receiving decals for devices to be placed at a specific location. Additional limitations are in place to ensure that DOR is able to track where all devices with decals are throughout the state as well as what happens in the event of distributors and operators change ownership.

Reg-54-106 Independent testing laboratories:

LB 538 authorizes DOR to require all devices to be tested by an independent testing laboratory to verify the device is a game of skill. The laboratory or laboratories which DOR approves are required to test the items set forth in these regulations and items referenced in other regulations. This regulation also sets forth the parameters for who is responsible for aspects of the testing transaction. Laboratories are required to produce a report detailing their analysis.

Reg-54-107 Contracts between distributors and operators:

This requires a contract between the distributor and operator and requires that the contract be on file with DOR. It is imperative to ensure that all parties understand their responsibilities and duties. Requiring a contract between the distributor and operator to be on file with DOR will ensure that the parties have discussed certain items and have reached an agreement on who will handle various aspects of the operation. This mutual understanding will in turn benefit players. This contract will also assist DOR and its investigators with ensuring all

monies are accounted for and who to speak to about various issues that may arise in an investigation.

Reg-54-108 Reporting and record requirements of distributors and operators:

To protect the gaming public and allow DOR to enforce and monitor compliance with the statute, as well as other revenue laws, this regulation governs the documents that must be created, and maintained by licensees. With large quantities of money being wagered, won, and exchanged, it is necessary that each machine accurately track all money and vouchers in and out. Because operators are generally the player-facing side of the cash device operation, it is important that they share in aspects of the record keeping and reporting functions. In the event an investigation is necessary, having the detailed records will be a key tool to resolving the case.

Reg-54-109 Paying Winners:

This regulation governs how winnings are paid out and provides more requirements when the winnings are large. Checks must be issued for winnings over \$100 and winnings greater than \$600 must be paid within 72 hours. Reference is made to the IRC 1099 requirements. Many forms of gaming within our own state have procedures for claiming of winnings up to a certain amount and an additional procedures for anything over a threshold. This will benefit the player by knowing generally what to expect no matter where they are playing. Having uniform procedures and items such as what required information on vouchers will prove invaluable to DOR's investigations team when attempting to resolve a dispute.

Reg-54-110 Disputes:

Disputes are inevitable and it is imperative that disputes be resolved in expeditious manner. This regulation works in conjunction with regulations above to put the responsibility on the distributor and operator to agree to terms on how to handle disputes within the time frame provided. If a dispute is unresolved then DOR may open an investigation after a report.