



# TABLE OF CONTENTS

## MECHANICAL AMUSEMENT DEVICE TAX REGULATIONS

### Numerical Index

REG. NO.	SUBJECT	REVISED DATE	REG. NO.	SUBJECT	REVISED DATE
Reg-54-001	Purpose of the Act .....	9/15/75	Reg-54-004	Occupation Tax .....	11/11/98
Reg-54-002	Definitions .....	11/11/98			
Reg-54-003	License Fees for Operators and Distributors .....	11/11/98	Reg-54-005	Machine or Device Decals .....	11/11/98

## MECHANICAL AMUSEMENT DEVICE TAX REGULATIONS

### REG-54-001 PURPOSE OF THE ACT

001.01 The purpose of the Mechanical Amusement Device Tax Act is to exempt the gross receipts from the operation of mechanical amusement devices from the Nebraska Revenue Act of 1967. The occupation tax and license fee levied by the Act is considered to be a payment in lieu of the sales or use tax on the gross receipts from the operation of mechanical amusement devices.

001.02 The Act does not exempt the sale of mechanical amusement devices from the application of the sales or use tax. The administration of this Act is vested in the Tax Commissioner and the Nebraska Department of Revenue.

(Sections 77-3001, 77-3002, and 77-3005, R.R.S. 1943. September 15, 1975.)

### REG-54-002 DEFINITIONS

002.01 Act shall mean the Mechanical Amusement Device Tax Act.

002.02 Mechanical amusement device (device) shall mean 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; and also shall mean game and draw lotteries. Generally, such devices would include, but are not limited to:

- 002.02A Pinball games,
- 002.02B Shuffleboard,
- 002.02C Bowling games,
- 002.02D Radio-ray games such as rifles, tanks, cannons, and darts,
- 002.02E Baseball games,
- 002.02F Football and foosball games,
- 002.02G Racing games,
- 002.02H Boxing games,
- 002.02I Air hockey games,
- 002.02J I.Q. games,
- 002.02K Light tennis and ping pong,
- 002.02L Game and draw lotteries,
- 002.02M Automatic musical devices (juke boxes),
- 002.02N Pool or billiards games, and
- 002.02O Video and electronic games.

002.03 The conduct of game and draw lotteries may be governed by the provisions of the Nebraska Lottery and Raffle Act, Nebraska Small Lottery and Raffle Act,

Nebraska County and City Lottery Act, and section 9-701 R.R.S. 1997. It is suggested therefore that those organizations desiring to conduct such activities consult their county attorney regarding the legality of the operation.

002.04 Mechanical amusement devices shall not include the following:

002.04A Vending machines which dispense tangible personal property.

002.04B Devices located in private homes for private use. Multiple family dwellings with common recreation center facilities will not be considered private homes.

002.04C Devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska.

002.04D Pickle card dispensing devices which are required to be registered under section 9-345.03.

002.05 Operator shall mean any person who operates a place of business in which a device owned by the operator is physically located or any person who places and either directly or indirectly manages or controls such device.

002.06 Distributor shall mean any person who sells, leases, or delivers a device to operators for a consideration whether directly or indirectly received. A distributor will also be an operator and subject to the same licensing and payment of the occupation tax on each device where the distributor leases or rents a device to business owners.

002.07 Decal shall mean the stamp issued by the Department of Revenue denoting payment of the occupation tax for one device.

(Sections 9-345.03, 9-401, 77-3001, and 77-3004, R.S.Supp., 1998, and sections 9-501, 9-601, 9-701, R.R.S. 1997. November 11, 1998.)

### REG-54-003 LICENSE FEES FOR OPERATORS AND DISTRIBUTORS

003.01 Operators and distributors are required to obtain an annual license from the Department of Revenue even if the application fee is zero. The license may be issued by the Department of Revenue upon application by the operator or distributor and the payment of the correct fee for the specific type of license to be obtained or renewed.

003.01A The fee for a distributor's license for the period July 1, 1998, through December 31, 1999, is two hundred fifty dollars (\$250.00). For periods beginning on or after January 1, 2000, the license fee is zero.

003.01B The fee for an annual operator's license is based upon the number of devices operated, until January 1, 2000.

003.01B(1) For the period July 1, 1998, through December 31, 1999, the annual operator's license fee is zero if the operator is operating less than ten devices.

003.01B(2) For the period July 1, 1998, through December 31, 1999, the fee for an annual operator's license to operate ten or more devices is two hundred fifty dollars (\$250.00).

003.01B(3) For the period July 1, 1998, through December 31, 1999, upon the addition of the tenth device, the annual operator's license fee is two hundred fifty dollars (\$250.00).

003.01B(4) For periods beginning on or after January 1, 2000, the fee for the annual operator's license is zero.

003.01C No license shall be issued:

003.01C(1) If the applicant is not a resident of this state or has not filed an appointment with the Secretary of State as agent for the service of summons,

003.01C(2) If the operator or distributor is not of good character and reputation in the community in which he resides,

003.01C(3) If the operator or distributor has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or of the United States,

003.01C(4) If the operator or distributor 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, or

003.01C(5) If the applicant is a corporation whose majority stockholders could not obtain a license, then such corporation shall likewise not be issued a license.

(Sections 77-3002 and 77-3003, R.S.Supp., 1998. November 11, 1998.)

#### REG-54-004 OCCUPATION TAX

004.01 The operator of any such device in the state shall pay an occupation tax for each device he or she actually operates during the taxable year. The tax shall be due and payable on January 1 of each year for every device in operation on that date.

004.01A The amount of occupation tax shall be:

004.01A(1) Fifty dollars (\$50.00) for each device for the period July 1, 1998, through December 31,

1999, except for devices placed in operation after April 1, 1999, the occupation tax shall be twenty-five dollars (\$25.00).

004.01A(2) Thirty-five dollars (\$35.00) for each device for periods beginning on and after January 1, 2000, except for devices placed in operation on or after July 1, the occupation tax shall be twenty dollars (\$20.00).

004.01B It shall be unlawful to pay the occupation tax unless the operator has:

004.01B(1) Actual ownership of the device, and

004.01B(2) Paid the sales and use tax on the purchase of the device.

004.02 The serial number of each device must accompany proof of payment of sales tax.

004.03 The occupation tax levied by this Act is in addition to any other tax imposed by this State or any of its political subdivisions upon the business of operating or distributing mechanical devices. If the occupation tax and license fee imposed under the provisions of this act are not paid on or before the licensing date of each year, the exemption granted in lieu of the tax on gross receipts is inapplicable and the provisions of the Nebraska Revenue Act of 1967, including penalties, will then be operative.

(Section 77-3004, R.S.Supp., 1998. November 11, 1998.)

#### REG-54-005 MACHINE OR DEVICE DECALS

005.01 The Department of Revenue will issue a decal, upon payment of the applicable operator's license fee and occupation tax, which shall be displayed conspicuously on each device denoting payment of the tax on one device for the year.

005.02 Decals are not transferable from device to device or from operator to operator. Once the decal is attached to a device, it should only be removed when a new decal is issued by the Department of Revenue for the next year upon renewal of the license and payment of the occupation tax as provided in Reg-54-003 and Reg-54-004.

005.03 Devices operated without a valid decal attached thereto, except game and draw lotteries, are considered to be operated in violation of the Act. Any person who has placed a mechanical amusement device in operation in the State of Nebraska without the necessary decal posted conspicuously upon it is subject to an administrative penalty of seventy-five dollars (\$75.00) for each violation and the mechanical amusement device is subject to being sealed by the Department. If the seal is broken prior to payment of the occupation tax upon the device, the device shall be subject to forfeiture and sale by the Department.

(Sections 77-3004, 77-3007, and 77-3009, R.S.Supp., 1998. November 11, 1998.)