

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

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§ 134.01 PROSTITUTION.

Any person who performs, offers, or agrees to perform any act of sexual contact or sexual penetration, as those terms are defined in Neb. RS 28-318, with any person not his or her spouse, in exchange for money or other thing of value, commits the offense of prostitution.

(Neb. RS 28-801) Penalty, see § 10.99

§ 134.02 PUBLIC INDECENCY.

A person, 18 years of age or over, commits the offense of public indecency if such person performs or procures, or assists any other person to perform, in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

(A) An act of sexual penetration as defined in Neb. RS 28-318;

(B) An exposure of the genitals of the body done with intent to affront or alarm any person; or

(C) A lewd fondling or caressing of the body of another person of the same or opposite sex.

(Neb. RS 28-806) Penalty, see § 10.99

§ 134.03 GAMBLING.

(A) For the purpose of this section, the definitions found in Neb. RS 28-1101 shall be used.

(B) A person commits the offense of promoting gambling if he or she knowingly:

(1) Advances or profits from any unlawful gambling activity by:

(a) Engaging in bookmaking;

(b) Receiving, in connection with any unlawful gambling scheme or enterprise, any amount of money played in the scheme or enterprise in any 1 day; or

(c) Betting something of value in an amount of \$300 or more with 1 or more persons in 1 day; or

(Neb. RS 28-1102 and 28-1103)

(2) Participates in unlawful gambling as a player by betting less than \$300 in any one day.

(Neb. RS 28-1104)

(C) (1) A person commits the offense of possession of a gambling device if he or she manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing that it shall be used in the advancement of unlawful gambling activity.

(2) This division shall not apply to any coin-operated mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has the capability of awarding free games, which is intended to be played and is in fact played for amusement only, and which may allow the player the right to replay such gaming device at no additional cost, which right to replay shall not be considered money or property, except that such mechanical game:

(a) Can be discharged of accumulated free replays only by reactivating the game for one additional play for each accumulated free replay; and

(b) Makes no permanent record directly or indirectly of free replays so awarded.

(3) Notwithstanding any other provisions of this division, any mechanical game or device classified by the federal government as an illegal gambling device and requiring a federal Gambling Device Tax Stamp as required by the Internal Revenue Service in its administration of 26 U.S.C. 4461 and 4462, amended July 1, 1965, by Public Law 89-44, are hereby declared to be illegal and excluded from the exemption granted in this division. (Neb. RS 28-1107)

(D) In any prosecution under this section, it shall be an affirmative defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of an unlawful gambling activity. (Neb. RS 28-1108)

(E) Proof of possession of any gambling device shall be prima facie evidence of possession thereof with knowledge of its contents and character. (Neb. RS 28-1109)

(F) It shall be no defense to a prosecution under any provision of this section relating to gambling that the gambling is conducted outside this village and is not in violation of the laws of the jurisdiction in which it is conducted. (Neb. RS 28-1110)

(G) Any gambling device or gambling record possessed in violation of any provision of this section, or any money used as a bet or stake in gambling activity in violation of any provision of this section, shall be forfeited to the state. (Neb. RS 28-1111)

(H) In any prosecution for an offense defined in this section, when the defendant's status as a player constitutes an excusing condition, the fact that the defendant was a player shall constitute an affirmative defense. (Neb. RS 28-1112)

(I) Nothing in this section shall be construed to:

(1) Apply to or prohibit wagering on the results of horse races by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horse race meetings; or

(2) Prohibit or punish the conducting or participating in any bingo, lottery by the sale of pickle cards, lottery, raffle, or gift enterprise when conducted in accordance with the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or Neb. RS 9-701.

(Neb. RS 28-1113)

(J) In any prosecution under this section in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event.

(Neb. RS 28-1117) Penalty, see § 10.99

§ 134.04 MISDEMEANORS; VIOLATION; PENALTY.

Any person who violates any of the prohibitions or provisions of any Section of this Chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular Section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to less than twenty-five (\$25.00) dollars and not to exceed one thousand (\$1,000.00) dollars and/or imprisonment for any length of time not to exceed three (3) months, in the discretion of the court; Provided, whenever any Section of this Article shall declare a nuisance, a violation of that Section shall be penalized by a fine of not more than one thousand (\$1,000.00) dollars, in which case a new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (*Ref. Stratton Municipal Ordinance 154, passed May 16, 2000.*)