

SPORTS AND AMUSEMENTS

CHAPTER 441

SENATE BILL NO. 2132

(Judiciary Committee)

(At the request of the State Gaming Commission)

GAMES OF CHANCE

AN ACT to amend and reenact sections 53-06.1-01, 53-06.1-01.1, 53-06.1-03, 53-06.1-06, 53-06.1-07.2, 53-06.1-07.3, 53-06.1-07.4, 53-06.1-10, 53-06.1-11, 53-06.1-11.1, 53-06.1-12.3, 53-06.1-14, 53-06.1-15.1, and 53-06.1-16 of the North Dakota Century Code, relating to games of chance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-01. Definitions. As used in this chapter:

1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, sales tax on bingo cards, pull tab excise tax, and federal excise tax ~~and interest~~ imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].
2. "Charitable organization" means an organization ~~incorporated as a nonprofit corporation~~ whose primary purpose is for relief of poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or similar condition of public concern; ~~which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.~~
3. "Civic and service organization" means an organization ~~incorporated as a nonprofit corporation~~ whose primary purpose is to promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar organization; ~~and which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.~~
4. "Closely related organization" means an organization that controls, is controlled by, or is under common control with another organization. Control exists when an organization has the authority or ability to elect, appoint, or remove a majority of the officers or directors of another organization or, by policy, contract, or otherwise, has the authority or ability to directly or indirectly direct or cause the direction of the management or policies of another organization.
5. "Compulsive gambler" means an individual who is chronically and progressively preoccupied with gambling and the urge to gamble and

with gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

5. 6. "Distributor" means a person that sells, markets, or distributes equipment usable in the conduct of games.
6. 7. "Educational organization" means ~~any~~ a nonprofit public or private elementary or secondary school, two-year or four-year college, or university ~~in this state which has been active for the two immediately preceding years.~~
7. 8. "Eligible organization" means veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota, incorporated as a nonprofit organization, and which has been actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general.
8. 9. "Fraternal organization" means an organization, except a ~~college or high school~~ fraternity, which is ~~incorporated as a nonprofit corporation and which is~~ a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have ~~been actively fulfilling its primary purpose within this state for the two immediately preceding years, and must have obtained an advance ruling or final determination from the internal revenue service as qualifying~~ qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.
9. 10. "Games" means games of chance.
10. 11. "Gross proceeds" means all cash and checks received from conducting games, sales tax on bingo cards, and admissions.
11. 12. "Licensed organization" means an eligible organization licensed by the attorney general.
12. 13. "Local permit" means a permit issued to a nonprofit organization or group of people domiciled in North Dakota by a governing body of a city or county.
13. 14. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints, assembles, fabricates, or produces; or constructs a the product or equipment designed for the conduct of games. For a pull tab and or bingo card dispensing device, a manufacturer is means the person who directly controls and manages development of and owns the rights to the proprietary software encoded on a processing chip that enables the device to operate.
14. 15. "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming tax.
15. 16. "Person" means any person, partnership, corporation, limited liability company, association, or organization.

46. 17. "Public safety organization" means an organization ~~incorporated as a nonprofit corporation~~ whose primary purpose is to provide firefighting, ambulance service, crime prevention, or similar emergency assistance; ~~which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.~~
47. 18. "Public-spirited organization" means an organization ~~incorporated as a nonprofit corporation~~ whose primary purpose is for scientific research, amateur sports competition, safety, arts, agriculture, preservation of cultural heritage, educational activities, educational public service, youth, economic development, tourism, community recreation, or similar organization, which does not meet the definition of ~~veterans, fraternal, charitable, educational, religious, civic and service, or public safety~~ any other type of eligible organization; ~~and which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.~~ However, a nonprofit organization or a group of people recognized as a public-spirited organization by a governing body of a city or county for obtaining a local permit does not need to meet this definition.
48. 19. "Qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering compulsive gambling education, prevention, awareness, crisis intervention, rehabilitation, and financial counseling and mental health treatment services as defined by the department of human services.
49. 20. "Religious organization" means a ~~nonprofit organization~~, church, body of communicants, or group gathered in common membership ~~incorporated as a nonprofit corporation~~ whose primary purpose is for advancement of religion, mutual support and edification in piety, worship, and religious observances ~~which has been actively gathered or united in this state for the two immediately preceding years.~~
20. 21. "Veterans organization" means any congressionally chartered post organization ~~within this state~~, or any branch or lodge or chapter of a nonprofit national or state organization whose membership consists of individuals who are or were members of the armed services or forces of the United States. ~~An~~ The organization must have been actively fulfilling its primary purpose in this state for the two immediately preceding years and must have obtained an advance ruling or final determination from the internal revenue service as qualifying qualified for exemption from federal income tax under section 501(c)(19) of the Internal Revenue Code.

SECTION 2. AMENDMENT. Section 53-06.1-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-01.1. Gaming commission.

1. The state gaming commission consists of the chairman and four other members appointed by the governor, with the consent of the senate. The members serve three-year terms and until a successor is appointed and qualified. If the senate is not in session when the term of a member expires, the governor may make an interim appointment, and the interim appointee holds office until the senate confirms or rejects the appointment. A member appointed to fill a vacancy arising from other

than the natural expiration of a term serves only for the unexpired portion of the term. The terms of the commissioners must be staggered so that one term expires each July first.

2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of gaming in this state. A person is also ineligible if that person has been convicted of a felony criminal offense or has pled guilty or been found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09, 12.1-10, 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or has pled guilty or been found guilty of any violation of section 6-08-16 or 6-08-16.2, or has pled guilty or been found guilty of any offense or violation that has a direct bearing on the person's fitness to be involved in gaming, or who has committed an equivalent offense or violation of the laws of another state or of the United States. A person who has a financial interest in gaming cannot be a member or employee of the commission. For the purpose of this subsection, a financial interest includes the receiving of any direct payment from an eligible organization for property, services, or facilities provided to that organization.
3. Commission members are entitled to forty dollars per day for compensation for each day spent on commission duties, and mileage and expense reimbursement as allowed to other state employees.
4. ~~The attorney general shall represent the state in all hearings before the commission. The commission may employ private counsel.~~
5. The commission shall adopt rules in accordance with chapter 28-32, to administer and regulate the gaming industry, including methods of conduct, play, and promotion of games; minimum procedures and standards for recordkeeping and internal control; requiring tax returns and reports from organizations or distributors; methods of competition and doing business by distributors and manufacturers; acquisition and use of gaming equipment; quality standards for the manufacture of pull tabs, paper bingo cards, and pull tab and bingo card dispensing devices; to ensure that net proceeds are disbursed to educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to protect and promote the public interest; to ensure fair and honest games; to ensure that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

SECTION 3. AMENDMENT. Section 53-06.1-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-03. Local permits, site authorization, and licenses.

1. ~~An~~ Except as authorized by the attorney general, an organization that has its license suspended or revoked, or has relinquished or not renewed its license and not disbursed its net proceeds, is ineligible for a license or local permit. Only one of two or more closely related organizations may have a license or local permit at one time. A college or university fraternity, sorority, or club is not closely related to an educational organization. An organization shall apply for a local permit as follows:

- a. ~~A nonprofit~~ An organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only raffles, bingo, or sports pools ~~in which~~. The organization or closely related organizations as a whole may only award a primary prize that does not exceed one thousand dollars; and the total prizes of all games that do not exceed six thousand dollars per year. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body which should in its determination consider the definition of a public-spirited organization under subsection 18 of section 53-06.1-01 and eligible uses of net proceeds under subsection 2 of section 53-06.1-11.1. A governing body may issue a local permit for ~~the~~ games to be held at designated times and places.
 - b. An ~~eligible~~ organization shall apply to the governing body of the city or county in which the proposed site ~~where the gaming activity to be conducted~~ is located. Application for a local permit must be made on a form prescribed by the attorney general. ~~If the nonprofit organization is a North Dakota college or university fraternity, sorority, or club, the organization shall provide a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity, sorority, or club.~~ Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each local permit. A local permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
 - c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an organization that has a local permit may use gaming proceeds for any purpose that does not violate this chapter or gaming rules.
2. An eligible organization shall apply for a license to conduct only bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, or sports pools by:
 - a. First securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. Approval, which may be granted at the discretion of the governing body, must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. A governing body may not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county. A governing body may limit the number of tables for twenty-one per site and the number of sites upon which a licensed organization may conduct games within the city or county. A governing body may charge a one hundred dollar fee for a site authorization; and
 - b. Annually applying for a license from the attorney general before July first on a form prescribed by the attorney general and ~~including with the application~~ remitting a one hundred fifty dollar license fee. An organization shall ~~sufficiently~~ document that it

qualifies as an eligible organization. If a ~~licensed~~ an organization amends its primary purpose as stated in its articles of incorporation or materially changes its basic character ~~in a material manner~~, the organization shall reapply for licensure.

3. A licensed organization ~~may~~ or organization that has a local permit shall conduct games ~~only on an authorized site~~ as follows:
 - a. Only one licensed organization or organization that has a local permit ~~at a time~~ may conduct games at an authorized site on a day, except that a raffle may be conducted for a special occasion by a ~~second~~ another licensed organization or organization that has a local permit when one of these conditions is met:
 - (1) When the area for the raffle is physically separated from the area where games are conducted by the regular ~~licensee~~ organization.
 - (2) Upon request of the regular ~~licensee~~ organization and with the approval of the alcoholic beverage establishment, the ~~licensee's~~ regular organization's license or local permit is suspended for that specific time of day by the attorney general.
 - b. Except for a temporary site authorized for fourteen or fewer consecutive days for not more than two events per quarter, a licensed organization may not have more than twenty-five sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization interested in conducting gaming at a site for which a waiver is being sought, the attorney general may approve the waiver for no more than five sites. ~~Only one of two or more closely connected organizations may have a license at one time. Closely connected organizations are two or more organizations which have an interdependent relationship, based on the presence and degree of unitary attributes. These attributes may include common primary purposes, members on boards of directors, officers, management, administrative and operating services, membership, program services, integrations of gaming activities, and shared facilities.~~
 - c. Games of pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools may be conducted only during the hours when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city.
 - d. An organization may not permit a person under twenty-one years of age to directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. An organization may not permit a person under eighteen years of age to directly or indirectly play bingo unless the person is accompanied by an adult, bingo is conducted by an organization that has a local permit, or the game's prize structure does not exceed that allowed for a local permit.
4. A local permit, or site authorization, and license, and rules relating to the conduct and play of games must ~~contain information prescribed by~~

~~the attorney general or local governing body and must be displayed at a site.~~

5. ~~The attorney general shall license an eligible organization that complies with this chapter and~~ may issue a conditional license to an eligible organization whose regularly issued license has expired or been suspended, revoked, or relinquished. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions.
6. A governing body or local law enforcement official may inspect a site's gaming equipment, and examine or cause to be examined the books and records of a licensed organization or organization that has a local permit to the extent that the books and records relate to any transaction involving the direct or indirect conduct of games.

SECTION 4. AMENDMENT. Section 53-06.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-06. Persons permitted to conduct games - Equipment.

1. No person, except a member, volunteer, an employee of a licensed organization or an organization that has a local permit, or an employee of a temporary employment agency who provides services to a licensed organization, may conduct any game. "Member" includes a member of an auxiliary organization. In conducting pull tabs or bingo through a dispensing device, the attorney general may allow an employee of an alcoholic beverage establishment to provide limited assistance to an organization.
2. Except when authorized by the attorney general or allowed by the gaming rules, an eligible organization shall procure gaming equipment only from a licensed distributor. No equipment or prizes may be purchased at an excessive price.
3. An organization shall maintain complete, accurate, and legible accounting records in North Dakota for all gaming activity and establish an adequate system of internal control. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of net proceeds. If an organization does not renew its license or its license is denied, relinquished, or revoked and it has not disbursed all of its net proceeds, the organization shall file an action plan as prescribed by the gaming rules with the attorney general.
4. The value of a merchandise prize awarded in a game is its retail price.
5. A person is restricted from being involved in gaming and the attorney general shall conduct criminal history record check as follows:
 - a. A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, a gaming rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal government equivalent to offenses defined in these chapters may not be a licensed distributor,

may not be employed by a licensed distributor to sell or distribute gaming equipment, and may not be employed by a licensed organization to conduct games on a site for five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.

- b. A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of section ~~6-08-16.2~~ 6-08-16.1 or chapter 12.1-06, 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a municipality equivalent to these offenses may not be a licensed distributor, may not be employed by a licensed distributor to sell or distribute gaming equipment, and may not be employed by a licensed organization to conduct games on a site for two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
 - c. ~~The~~ Unless an employee is exempt by the gaming rules or attorney general, the attorney general shall conduct a criminal history record check of each ~~potential~~ employee of a licensed organization or distributor and charge a fee of twenty dollars ~~per record check in accord with section 12-60-16.9~~. The fee may be waived ~~in part or in whole~~ by the attorney general if a federal agency or local law enforcement agency has done a record check. The attorney general may require advance payment of any additional fee necessary to ~~defray~~ pay the ~~actual~~ cost of a background record check of a person for whom adequate background information sources are not readily available, ~~including a person who has not resided in North Dakota for the previous five years~~. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the background check. The attorney general shall notify the person when a determination is made that an additional fee is necessary and shall notify the person of the best estimate of the amount of the additional fee. ~~In lieu~~ Instead of paying the additional cost fee, a person may cancel the background record check. The ~~estimated cost~~ advance payment must be placed in the attorney general's refund fund ~~for use to defray the actual expenses of the background check~~. The ~~remainder of the unused~~ funds must be returned to the person within thirty days of the conclusion of the background record check. The attorney general shall notify the organization or distributor and the person of the result of the background check. The attorney general shall ~~hold~~ keep the information confidential except in the proper administration of this chapter or any gaming rule, or to provide to an authorized law enforcement agency.
6. ~~A~~ For a site where bingo is the primary game or a site that is leased by a licensed organization, the organization may not pay bingo prizes in which the total bingo prizes ~~exceeds~~ exceed total bingo gross proceeds for a period prescribed by gaming rule. However, if bingo is the primary game at the site, a bingo prize that equals or exceeds ten thousand dollars is excluded from the total of the bingo prizes.
 7. A city or county may require a person conducting games to obtain a local work permit, charge a reasonable fee, and conduct a criminal

history record check. A fee may not exceed the actual expense of processing an application.

SECTION 5. AMENDMENT. Section 53-06.1-07.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.2. Poker. ~~A licensed organization may conduct poker~~ Poker may be conducted on not more than two occasions per year. An organization may supply the dealer. The maximum single bet is one dollar. Not more than three raises, of not more than one dollar each, may be made among all the players in each round of bets. ~~Otherwise the normal rules of poker apply.~~ An organization shall assess each player a fee not to exceed two dollars per one-half hour of playing time, collected in advance. A fee may be charged each player for entry into a tournament for prizes and this fee may be in place of or in addition to the fee assessable at one-half hour intervals.

SECTION 6. AMENDMENT. Section 53-06.1-07.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.3. Calcuttas. A calcutta may only be conducted for a professional or amateur sporting event held in this state, but not for elementary, secondary, or postsecondary education sports events. ~~An organization shall post at the site all rules affecting the conduct and play of calcuttas. An organization may not have an interest in the outcome of the calcutta. A player must place a wager in the calcutta auction pool at the site. No more than~~ Only one wager per competitor may be allowed in ~~any~~ a calcutta pool. The amount of prizes may not exceed ninety percent of the gross proceeds. A player may not place a wager on a competitor in a calcutta sporting event unless the competitor is eighteen years of age or older.

SECTION 7. AMENDMENT. Section 53-06.1-07.4 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.4. Paddlewheels. ~~An organization shall post at the site rules relating to paddlewheels.~~ A paddlewheel is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or symbols, and which after being spun, uses a pointer to indicate the winning number or symbol. The maximum price per ~~wager~~ paddlewheel ticket is two dollars. No money may be used ~~to bet on the table as a wager.~~ A table and chips must be used to register a player's wager when a prize is a variable multiple of the wager. ~~A~~ Otherwise, a paddlewheel ticket must be used ~~to register a player's wager when a prize is not a variable multiple of the wager.~~ A player may not place wagers valued at more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the retail value of the merchandise prize to be awarded for a winning wager may exceed one hundred dollars.

SECTION 8. AMENDMENT. Section 53-06.1-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10. Twenty-one. No money may be ~~allowed on the table used~~ used as a wager. The organization shall provide playing chips of various denominations to players. ~~Chips must be redeemed by the organization for their full value.~~ The maximum limit per wager may be set by the organization at not more than five dollars and wagers in increments of one dollar must be accepted up to the maximum limit. A player may not play more than two hands at the same time. Only the player actually playing a hand may place a wager on any hand. Each player plays the player's hand against the dealer's hand. ~~To remain in the hand being dealt,~~

neither the player nor the dealer may play a hand with a count greater than twenty-one. A count of twenty-one obtained with two cards is a natural twenty-one and is an automatic payout except in a tie count with the dealer. Players may double down on a natural twenty-one. For a tie count between the player and the dealer, no winner is declared and the player keeps the player's wager. An organization may allow pooling of tips received by dealers at a site. Any requirement to pool tips is within the sole discretion of each organization. An organization shall post rules relating to twenty-one. Except for a site that has twenty-one gross proceeds averaging less than ten thousand dollars per quarter, an organization may not conduct twenty-one at the site with wagers exceeding two dollars unless the organization has first installed video surveillance equipment as required by rules and the equipment is approved by the attorney general.

SECTION 9. AMENDMENT. Section 53-06.1-11 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11. Gross proceeds - Allowable expenses - Rent limits.

1. All money received from games must be accounted for according to the gaming rules. Gaming activity for a quarter must be reported on a tax return form prescribed by the attorney general. ~~The~~ Unless otherwise authorized by the attorney general, the purchase price of a merchandise prize must be paid from a gaming bank account by check. No check drawn from a gaming or trust bank account may be payable to "cash" or a fictitious payee. A cash prize that exceeds an amount set by rule must be accounted for by a receipt prescribed by the gaming rules.
2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. In addition, an organization may deduct as an allowable expense:
 - a. Two and one-half percent of the gross proceeds of pull tabs.
 - b. Capital expenditures for security or video surveillance equipment used for controlling games if the equipment is required by section 53-06.1-10 or authorized by rule, and it is approved by the attorney general.
3. Cash shorts incurred in games and interest and penalty are classified as expenses.
4. For a site where bingo is conducted:
 - a. Except under subdivision c, if bingo is the primary game, the monthly rent must be reasonable.
 - b. If bingo is not the primary game, but is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.
 - c. If bingo is conducted through a dispensing device and no other game is conducted, the monthly rent may not exceed two hundred ~~twenty-five~~ seventy-five dollars.

5. For a site where bingo is not the primary game:
 - a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by gaming rule. If pull tabs is also conducted involving a jar bar or dispensing device, but not both, the monthly rent for pull tabs may not exceed an additional one hundred ~~twenty-five~~ seventy-five dollars. If pull tabs is conducted involving both a jar bar and dispensing device, the monthly rent for pull tabs may not exceed an additional two hundred dollars.
 - b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving a jar bar or dispensing device, but not both, the monthly rent may not exceed two hundred ~~twenty-five~~ seventy-five dollars. If pull tabs is conducted involving both a jar bar and dispensing device, the monthly rent for pull tabs may not exceed three hundred dollars.

SECTION 10. AMENDMENT. Section 53-06.1-11.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses of net proceeds.

1. A licensed organization or an organization that has a local permit may not use money from any source for placing an initiated or referred measure on a ballot or for a political campaign to promote or oppose a person for public office. Except for a use related to an organization's primary purpose, a licensed organization or organization that has a local permit may not use net proceeds to influence legislation or promote or oppose referendums or initiatives. Any funds expended by ~~an~~ a licensed organization or an organization that has a local permit to promote or oppose an initiated or referred measure that is on the ballot or for any activities of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are not required to be reported under section 54-05.1-03 must be reported to the attorney general as prescribed by the attorney general. A violation of this ~~section~~ subsection subjects an organization to a suspension of its license or local permit for up to one year.
2. A licensed organization shall disburse net proceeds within the period prescribed by rule and for only these educational, charitable, patriotic, fraternal, religious, or public-spirited uses:
 - a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.
 - b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.
 - c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:

- (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
 - (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
 - (3) Assistance to libraries and museums.
 - (4) Assistance for the performing arts and humanities.
 - (5) Preservation of cultural heritage.
 - (6) Youth community, social welfare, and athletic activities.
 - (7) Adult amateur athletic activities within the state, ~~such as softball~~, including uniforms and equipment.
 - (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
 - (9) Scientific research.
- d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:
- (1) ~~Relief~~ Assistance to an individual or family suffering from poverty or homelessness.
 - (2) Encouragement and enhancement of the active participation of the elderly in our society.
 - (3) Services to the abused.
 - (4) Services to persons with an addicted behavior toward alcohol, gambling, or drugs.
 - (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.
 - (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
 - (7) Funds for emergency relief and volunteer services.
 - (8) Funds to nonprofit nursing homes, nonprofit day care centers, and nonprofit medical facilities.
 - (9) Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.

- (10) Funds for crime prevention, fire protection and prevention, and public safety.
 - (11) Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, and health and welfare of injured or disabled veterans.
- e. Uses that perpetuate the memory and history of the dead.
 - f. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof which include disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants do not qualify.
 - g. The erection or maintenance of public buildings, utilities, or waterworks.
 - h. Uses lessening the burden of government which include disbursements to an entity that is normally funded by a city, county, state, or United States government and disbursements directly to a government entity or its agency.
 - i. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is not covered by insurance.
 - j. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is not covered by insurance.
 - k. Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies if it develops or promotes public services, including education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, tourism, and health. Uses that directly benefit a chamber of commerce do not qualify.
 - l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of the community which include disbursements to provide:
 - (1) Funds for adult bands, including drum and bugle corps.
 - (2) Funds for trade shows and conventions conducted in this state.
 - (3) Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife ~~propagation~~ reproduction and habitat enhancement program.
 - (4) Funds for public transportation, community celebration, and recreation.

- (5) Funds for preservation and cleanup of the environment.
- m. To the extent net proceeds are used toward the primary purpose of a charitable, educational, religious, public safety, or public-spirited organization, or are used for a veterans cemetery by a veterans organization, that has obtained a final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, the organization may establish a special trust fund as a contingency for funding or maintaining the organization's future program services should the organization discontinue conducting games or dissolve.
3. The uses in subsection 2 do not include the erection, acquisition, improvement, maintenance, or repair of real or personal property owned or leased by an organization unless it is used exclusively for an eligible use. ~~No part A licensed organization or recipient of net proceeds after they have been disbursed to an eligible use recipient may be used by the donee to pay any person not use net proceeds for services rendered or materials purchased in connection with administrative or operating expenses involving the conduct of games by the donor organization.~~

SECTION 11. AMENDMENT. Section 53-06.1-12.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12.3. Interest and, penalty, and estimated tax. ~~The attorney general shall assess a licensed organization interest and penalty as follows:~~

1. Assessment of interest. If an organization does not pay tax due by the original date of a tax return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original due date of the return, the organization shall pay interest on the tax at the rate of twelve percent per annum computed from the original due date of the return through the date the tax is paid.
2. Assessment of penalty. If an organization does not pay tax due on a tax return by the original or extended due date of the return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater. If an organization does not file a tax return by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater, for each month or fraction of a month during which the return is not filed, not exceeding a total of twenty-five percent.
3. The attorney general may require a licensed organization to make monthly estimated gaming and excise tax payments if the attorney general determines that the organization is in poor financial condition. If an organization fails to pay any tax or estimated tax, interest, or penalty by the original due date or date set by the attorney general, the attorney general may bring court action to collect it and may suspend the organization's license. The attorney general may for good cause

waive all or part of any interest or penalty and may waive any minimal tax.

4. If an organization has failed to file a tax return, has been notified by the attorney general of the delinquency, and refuses or neglects within thirty days after the notice to file a proper return, the attorney general shall determine the adjusted gross proceeds and gaming and excise taxes due according to the best information available and assess the taxes at not more than double the amount. Interest and penalty also must be assessed.

²⁸² **SECTION 12. AMENDMENT.** Section 53-06.1-14 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-14. Distributors and manufacturers.

1. A manufacturer of pull tabs, bingo cards, and or pull tab dispensing devices, and a distributor shall apply annually for a license upon a form prescribed by the attorney general before the first day of April in each year. The license fee for a distributor is one thousand five hundred dollars. The license fee for a manufacturer is four thousand dollars.
2. A licensed distributor may not sell, market, or distribute gaming equipment except to a licensed distributor, licensed organization, organization that has a local permit, or other person authorized by gaming rule or the attorney general. A manufacturer of a pull tab dispensing ~~devices~~ device, pull ~~tabs~~ tab, or bingo ~~cards~~ card may only sell, market, or distribute the manufacturer's pull tab dispensing ~~devices~~ device and processing chip encoded with proprietary software, pull ~~tabs~~ tab, or bingo ~~cards~~ card to a licensed distributor. ~~A distributor may purchase or acquire pull tabs or bingo cards only from a licensed manufacturer or licensed distributor.~~ A licensed distributor may purchase or acquire a ~~new~~ pull tab dispensing device and processing chip encoded with proprietary software, pull tab, or bingo card only from a licensed manufacturer or licensed distributor. However, a distributor may purchase or acquire a used pull tab dispensing device from a licensed organization. A distributor may not duplicate a manufacturer's processing chip encoded with proprietary software. No gaming equipment or prizes may be sold at an excessive price.
3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs and bingo cards, punchboard, sports pool board, calcutta board, and series of paddlewheel ticket cards sold and shall purchase the stamps from the attorney general for twenty-five cents each.
4. A licensed organization, organization that has a local permit, licensed manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or stockholder of a distributor. ~~A licensed manufacturer may not have any financial interest in a~~

²⁸² Section 53-06.1-14 was also amended by section 9 of Senate Bill No. 2003, chapter 25.

~~distributor.~~ A distributor may not ~~have any financial interest in~~ be a stockholder of a licensed manufacturer.

5. In addition to the license fee, the attorney general may require advance payment of any ~~additional~~ fee necessary to ~~defray~~ pay the ~~actual~~ cost of a ~~background~~ record check of an applicant ~~by following the procedures prescribed by~~ according to subdivision c of subsection 5 of section 53-06.1-06.

SECTION 13. AMENDMENT. Section 53-06.1-15.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15.1. Authority of the attorney general. The attorney general may:

1. Inspect all sites in which gaming is conducted or inspect all premises where gaming equipment is manufactured or distributed. The attorney general may require a licensed manufacturer to reimburse the attorney general for the reasonable actual cost of transportation, lodging, meals, and incidental expenses incurred in inspecting the manufacturer's facility.
2. Inspect all gaming equipment and supplies on a site or premises.
3. Seize and remove from a site or premises and impound any gaming equipment, supplies, games, or books and records for the purpose of examination and inspection. When books or records are seized, the attorney general shall provide copies of those records or books within seventy-two hours of a specific request by the organization for a copy of the books or records seized.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, organizations, lessors, manufacturers, ~~and~~ distributors, ~~including any~~ and affiliated companies on their premises concerning any income or expense resulting from any gaming activity, determine compliance with this chapter or gaming rules, and require verification of income, expense, or use of net proceeds, and all other matters affecting this chapter.
5. ~~The attorney general may permit~~ Permit the commissioner or proper representative of the internal revenue service of the United States to inspect a tax return or furnish a copy of the tax return, or information concerning any item contained in the return, or disclosed by any audit or investigation report of the gaming activity of any organization or player, or recordkeeping information. However, information cannot be disclosed to the extent that the attorney general determines that the disclosure would identify a confidential informant or seriously impair any civil or criminal investigation. Except when directed by judicial order, or for pursuing civil or criminal charges regarding a violation of this chapter or a gaming rule, or as is provided by law, the attorney general may not divulge nor make known, to any person, any income or expense item contained in any tax return or disclosed by an audit or investigative report of any taxpayer, provided to the attorney general by the internal revenue service.
6. Require a representative of a licensed organization or distributor to participate in training or for good cause prohibit the person from being

involved in gaming as an employee or volunteer. The attorney general may for good cause prohibit a person from providing personal or business services to an organization or distributor.

7. Prohibit a person from playing games if the person violates this chapter, chapter 12.1-28, or 53-06.2, or a gaming rule.
8. Require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination or a hearing by the attorney general.
9. Based on reasonable ground or written complaint, suspend, deny, or revoke an organization's local permit or an organization's, distributor's, or manufacturer's application or license for violation, by the organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the organization, distributor, or manufacturer, of this chapter or any gaming rule.
10. Impose a monetary fine on a licensed organization, organization that has a local permit, distributor, or manufacturer for failure to comply with this chapter or any gaming rule. The monetary fine for each violation by an organization is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater. The monetary fine for each violation by a distributor is a minimum of one hundred dollars and may not exceed five thousand dollars. The monetary fine for each violation by a manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars. This fine may be in addition to or in place of a license suspension or revocation.
11. At any time within three years after any amount of fees, monetary fine, interest, penalty, or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross income or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross income or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.
12. Institute an action in any district court for declaratory or injunctive relief against a person, whether or not the person is a gaming licensee, as the attorney general deems necessary to prevent noncompliance with this chapter or gaming rules.
13. For good cause, require a licensed organization to use the attorney general's recordkeeping system for any or all games.

SECTION 14. AMENDMENT. Section 53-06.1-16 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-16. Violation of law or rule - Fraudulent scheme or technique to cheat or skim unlawful - Penalty.

1. Except as otherwise provided by this chapter, a person who knowingly makes a false statement on a request for record check form or in any application for a local permit, or license, or in any accompanying statement, knowingly signs a false record or report, or who fails to maintain sufficient books and records or adequate internal control to substantiate gross proceeds, prizes, cash profits, expenses, or disbursement of net proceeds, or who falsifies any books or records relating to any transaction involving the direct or indirect conduct of games, or who violates this chapter, any gaming rule, or of any term of a local permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any gaming license or local permit issued to it and is ineligible to reapply for a gaming license or local permit for a period of time determined by the attorney general.
2. It is unlawful for a person playing or conducting a game, or otherwise:
 - a. To use bogus or counterfeit chips or pull tabs, or to substitute or use any game, cards, pull tabs, or game piece that have been marked or tampered with.
 - b. To employ or have on one's person any cheating device to facilitate cheating in any game, or to attempt to commit or commit a theft, or to assist in committing any other fraudulent scheme.
 - c. To willfully use any fraudulent scheme or technique, including when a person directly or indirectly solicits, provides, or receives inside information of the status of a game of pull tabs for the benefit of any person.
 - d. To alter or counterfeit a site authorization, license, or North Dakota gaming stamp.
 - e. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate this chapter or a gaming rule.

A person violating this subsection is guilty of a class A misdemeanor unless the total amount gained through the use of these items, schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person uses a fraudulent scheme regarding soliciting, providing, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving pull tabs, twenty-one, or bingo, regardless of the amount gained, the offense is a class C felony.

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