

SPORTS AND AMUSEMENTS

CHAPTER 543

SENATE BILL NO. 2411
(Senators Graba, Yockim)
(Representatives St. Aubyn, Rydell, Oban)

BOXING, KICKBOXING, AND SPARRING

AN ACT to amend and reenact sections 53-01-02, 53-01-03, 53-01-07, 53-01-09, 53-01-17, 53-01-18, and 53-01-19 of the North Dakota Century Code, relating to a state athletic advisory board, regulation of boxing, kickboxing, and sparring, and duties of the secretary of state; to repeal sections 53-01-08, 53-01-10, 53-01-12, 53-01-13, 53-01-15, and 53-01-16 of the North Dakota Century Code, relating to regulation of boxing, kickboxing, and sparring; to provide a penalty; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-01-02 of the North Dakota Century Code is amended and reenacted as follows:

53-01-02. ~~State Administration by secretary of state - Appointment of athletic commissioner advisory board. The secretary of state shall act as state athletic commissioner and administer this chapter. The secretary of state may appoint an athletic advisory board to assist and advise the secretary of state in matters relating to the regulation of boxing, kickboxing, and sparring. The secretary of state shall define the duties of the board. Members of the board shall serve without compensation, except for reimbursement for actual and necessary expenses at the same rate as allowed state employees incurred in performing their official duties.~~

SECTION 2. AMENDMENT. Section 53-01-03 of the North Dakota Century Code is amended and reenacted as follows:

53-01-03. Restrictions. The secretary of state may not, directly or indirectly, promote any boxing, kickboxing, or sparring, ~~or wrestling~~ exhibition, ~~nor~~ engage in the managing of any boxer or ~~wrestler~~ kickboxer, ~~nor~~ or be interested in any manner in the proceeds from any boxing ~~or wrestling~~, kickboxing, or sparring exhibition.

SECTION 3. AMENDMENT. Section 53-01-07 of the North Dakota Century Code is amended and reenacted as follows:

53-01-07. Duties of state athletic commissioner. The secretary of state shall ~~have charge and supervision of~~ supervise all boxing, kickboxing, or sparring exhibitions held in the state and may:

1. ~~Make Adopt~~ rules governing the conduct of boxing ~~or~~, kickboxing, and sparring exhibitions.

2. Issue licenses to individuals or organizations desiring to promote or conduct such exhibitions and suspend or revoke such licenses at pleasure.

The provisions of subsection 2 do not apply to any boxing or sparring exhibitions the net proceeds of which are to be devoted to charitable purposes. Charitable organizations conducting boxing and sparring exhibitions shall submit documents to the secretary of state providing proof of their nonprofit corporate status; shall submit a notification of contest naming contestants and other ring officials; and shall submit a final report showing the boxing exhibition results. Establish license fees for all boxers and kickboxers, and boxing, kickboxing, and sparring promoters, managers, and referees.

SECTION 4. AMENDMENT. Section 53-01-09 of the North Dakota Century Code is amended and reenacted as follows:

53-01-09. Moneys Fees paid into state treasury ~~Disbursement special fund - Continuing appropriation.~~ All moneys fees collected by the secretary of state pursuant to the provisions of this chapter must be paid into the state treasury and must be disbursed only as other state funds are disbursed by law deposited in a special fund maintained in the state treasury. All money deposited in the fund is appropriated as a continuing appropriation to the secretary of state for administering this chapter and for the compensation and expenses of members of the athletic advisory board.

SECTION 5. AMENDMENT. Section 53-01-17 of the North Dakota Century Code is amended and reenacted as follows:

53-01-17. Exhibitions prohibited where illegal also governed by local ordinance. Boxing, kickboxing, or sparring, or wrestling exhibitions provided for under this chapter may not be held in municipalities cities in which such contests or exhibitions are declared illegal by ordinance. All boxing, kickboxing, or sparring, or wrestling exhibitions held in any municipality city in this state must be held in conformity with the ordinances of said municipality the city in addition to the requirements under this chapter.

SECTION 6. AMENDMENT. Section 53-01-18 of the North Dakota Century Code is amended and reenacted as follows:

53-01-18. Certain organizational and institutional matches exhibitions exempt. All boxing or sparring exhibitions conducted or promoted by the high schools, the or schools of higher learning, or amateur boxing or sparring sponsored by nonprofit organizations in this state, and those participating therein, exhibitions, must be conducted under the rules and supervision of the United States of America amateur boxing federation or its local affiliates and are exempted exempt from the provisions of this chapter.

SECTION 7. AMENDMENT. Section 53-01-19 of the North Dakota Century Code is amended and reenacted as follows:

53-01-19. Holding match or contest without license a misdemeanor.

† Any person who, without a license from the secretary of state, shall:

- a. Send or cause to be sent, published, or otherwise made known, any challenge to fight or engage in any public boxing or sparring exhibition or contest, with or without gloves, for any prize, reward, or compensation, or at which any admission fee is charged, either directly or indirectly;
 - b. Go into training preparatory for such exhibition or contest; or
 - c. Act as a trainer, aider, arbiter, backer, referee, umpire, second, surgeon, assistant, or attendant at such exhibition or contest, or any preparation for the same; and
2. Any owner or lessee of any grounds, building, or structure, permitting the same to be used for such match, exhibition, or contest. Penalty. A person who violates this chapter or any rule adopted by the secretary of state is guilty of a class B misdemeanor. This section does not apply to boxing or sparring exhibitions held or to be held under a license issued by the secretary of state in keeping with the rules and regulations prescribed.

SECTION 8. REPEAL. Sections 53-01-08, 53-01-10, 53-01-12, 53-01-13, 53-01-15, and 53-01-16 of the North Dakota Century Code are repealed.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 544

SENATE BILL NO. 2381
(DeKrey, Satrom)

AMUSEMENT GAME OPERATORS FEES

AN ACT to amend and reenact section 53-04-02 of the North Dakota Century Code, relating to license fees for amusement game operators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 53-04-02 of the North Dakota Century Code is amended and reenacted as follows:

53-04-02. Annual license required - Fee. A person may not operate, lease, or distribute an amusement game or device without first having obtained an annual license.

Licenses are of two types. An operator's license entitles the licensee to operate, lease, or distribute machines at locations not owned or managed by the licensee. The operator shall affix to each machine an operator's number provided by the attorney general. The operator shall have a business office within the state and a valid sales tax permit. A location license must be secured by an individual for any establishment managed or owned by that person. A location license entitles the licensee to have not more than ten machines at one location managed or owned by that individual. An individual is not entitled to more than one location license. The location license must be displayed on or near the machines.

The annual fee for an operator's license is seven hundred fifty one thousand dollars ~~for not more than one hundred machines, and two thousand dollars for more than one hundred machines.~~ The annual fee for a location license is twenty-five dollars per machine.

Approved March 14, 1991
Filed March 15, 1991

* NOTE: Section 53-04-02 was also amended by section 3 of Senate Bill No. 2174, chapter 78.

CHAPTER 545

SENATE BILL NO. 2219
(Committee on Judiciary)
(At the request of the Attorney General)

GAMING LAW REVISIONS

AN ACT to amend and reenact subsections 1, 6, and 10 of section 53-06.1-01, subsections 1 and 9 of section 53-06.1-06, subsection 2 of section 53-06.1-06.1, subsection 4 of section 53-06.1-07.2, and subsections 2, 3, and 4 of section 53-06.1-14 of the North Dakota Century Code, relating to games of chance laws, definitions of adjusted gross proceeds, distributor, and entire net proceeds, persons permitted to conduct games of chance, the frequency of work permit renewals, the assessable fee in poker, and to provide for the distribution of games of chance equipment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 1, 6, and 10 of section 53-06.1-01 of the 1990 Special Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. "Adjusted gross proceeds" means, except in the case of the games of draw poker and stud poker authorized under section 53-06.1-07.2, gross proceeds less cash prizes or the price of merchandise prizes and the charitable gaming tickets excise tax imposed by section 53-06.1-12.2. In the games of draw poker and stud poker, "adjusted gross proceeds" means the time buy-ins or tournament fees collected by the eligible organization.
6. "Distributor" means a person, firm, corporation, association, or organization which sells, markets, or otherwise distributes raffle tickets, bingo equipment, or any other implements of gambling usable in the lawful conduct of games of chance under this chapter, ~~to an organization licensed or authorized to conduct such games of chance under this chapter.~~ "Distributor" does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization, and who sells or otherwise distributes such raffle tickets to such organization.
10. "Entire net proceeds" or "net proceeds" means the adjusted gross proceeds less such expenses, ~~charges, fees, and taxes, and deductions~~ as are specifically authorized under this chapter.

** SECTION 2. AMENDMENT. Subsections 1 and 9 of section 53-06.1-06 of the North Dakota Century Code are amended and reenacted as follows:

1. No person, except a member or employee of an eligible organization or a member of an organization auxiliary to an eligible organization, may assist in the holding, operating, or conducting

* NOTE: Section 53-06.1-01 was also amended by section 1 of House Bill No. 1050, chapter 547; by section 20 of Senate Bill No. 2001, chapter 28; and by section 1 of Senate Bill No. 2219, chapter 545.

** NOTE: Section 53-06.1-06 was also amended by section 4 of House Bill No. 1597, chapter 549; by section 23 of Senate Bill No. 2001, chapter 28; by section 27 of Senate Bill No. 2068, chapter 54; and by section 1 of Senate Bill No. 2541, chapter 550.

of any game of chance under this chapter. However, a volunteer of an organization may sell raffle tickets.

9. No person convicted who has pled guilty to or been found guilty of a felony within the last two years, or may sell or distribute equipment, or conduct or assist in games of chance under this chapter for five years from the date of the conviction or release from incarceration, parole, or probation, whichever is the latter. No person determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter for a period determined by the attorney general.

* SECTION 3. AMENDMENT. Subsection 2 of section 53-06.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general may establish a centralized statewide work permit system to determine the identity, prior activities, and present employment of all gaming employees in this state. The information must be held confidential except in the proper administration of this chapter or any rule adopted under this chapter, or to an authorized law enforcement agency. No gaming organization may employ any person or a gaming employee nor may any person be employed as a gaming employee unless that person possesses a current and valid work permit. The attorney general may issue, renew, deny, suspend, and revoke work permits. Subject to the attorney general's discretion, a temporary work permit may be issued. If an application is denied or a work permit is suspended or revoked, the notice by the attorney general must include a statement of the facts upon which the attorney general relied in making the decision. Any person whose application for a work permit has been denied may, not later than twenty days following receipt of the notice, apply to the attorney general for a hearing. A work permit expires unless renewed within fourteen days after a change of employment or if the person is not employed as a gaming employee within the state for more than ninety days. The attorney general may prescribe the frequency of the work permit renewals. The attorney general may issue an emergency order, effective upon service to the permitholder, suspending a person's work permit upon a determination that the suspension is necessary to preserve effective regulation and control of gaming, to preserve the public interest or morals, or the person obtained a work permit by misrepresentation. The attorney general may charge each gaming employee an annual work permit fee of twenty-five dollars and a fee of five dollars for each change of employment.

SECTION 4. AMENDMENT. Subsection 4 of section 53-06.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

4. The eligible organization shall assess each player a fee not to exceed two dollars per half hour of playing time by that person, collected in advance. A fee may also be charged each player for entry into a tournament for prizes which fee may be in lieu of or in addition to the fee assessable at one-half hour intervals.

* NOTE: Subsection 2 of section 53-06.1-06.1 was also amended by section 2 of House Bill No. 1138, chapter 551.

* SECTION 5. AMENDMENT. Subsections 2, 3, and 4 of section 53-06.1-14 of the 1990 Special Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. No distributor may sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to other licensed distributors, licensed organizations, ~~or~~ organizations that have been issued a local permit, gaming schools, or other persons authorized by the attorney general. A manufacturer of charitable gaming tickets or paper bingo cards may not sell, market, or otherwise distribute charitable gaming tickets or paper bingo cards, other than to a licensed distributor. A distributor of charitable gaming tickets or paper bingo cards must purchase or otherwise receive charitable gaming tickets or paper bingo cards only from a licensed manufacturer or licensed distributor.
3. Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this chapter, unless the raffle tickets or equipment for games of chance are printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. No game of charitable gaming tickets, punchboards, sports pool boards, calcutta boards, or a series of raffle wheel ticket cards may be sold without a North Dakota gaming stamp being affixed to them. North Dakota licensed distributors shall purchase the North Dakota gaming stamps from the attorney general's office and the cost for each stamp may not exceed twenty-five cents.
4. No licensed or authorized eligible organization may be a distributor. No North Dakota wholesaler of liquor or alcoholic beverages may be a distributor. No North Dakota licensed manufacturer may be a distributor.

Approved April 5, 1991

Filed April 8, 1991

* NOTE: Section 53-06.1-14 was also amended by section 1 of House Bill No. 1052, chapter 554; by section 4 of House Bill No. 1290, chapter 552; and by section 28 of Senate Bill No. 2001, chapter 28.

CHAPTER 546

SENATE BILL NO. 2063
(Legislative Council)
(Interim Judiciary Committee)

FEDERAL GAMING EXCISE TAX DEDUCTION

AN ACT to amend and reenact subsection 1 of section 53-06.1-01 and subsection 3 of section 53-06.1-11 of the North Dakota Century Code, relating to the definition of adjusted gross proceeds with regard to charitable gaming activities and expenses allowed to charitable gaming organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 53-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Adjusted gross proceeds" means, except in the case of the games of draw poker and stud poker authorized under section 53-06.1-07.2, gross proceeds less cash prizes or the price of merchandise prizes and less the amount of federal excise tax and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401]. In the games of draw poker and stud poker, "adjusted gross proceeds" means the time buy-ins or tournament fees collected by the eligible organization.

SECTION 2. AMENDMENT. Subsection 3 of section 53-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. Subject to the limitations of this subsection, expenses incurred for games of chance may be deducted from adjusted gross proceeds, to the extent that total expenses for games of chance do not exceed 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. After December 31, 1989, cash shorts incurred in games of chance are classified as expenses toward the expense limitation. Notwithstanding the limitations of this subsection, in addition to the expenses allowed to be deducted from adjusted gross proceeds, an eligible organization may deduct as an expense federal excise taxes and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401] and incurred or paid by the organization for the period beginning January 1, 1986, and ending as of July 1, 1991. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes. This subsection does not authorize violations of the rent limitations contained in this chapter.

Approved April 5, 1991
Filed April 8, 1991

- * NOTE: Section 53-06.1-01 was also amended by section 1 of House Bill No. 1050, chapter 547; by section 20 of Senate Bill No. 2001, chapter 28; and by section 1 of Senate Bill No. 2219, chapter 545.

CHAPTER 547

HOUSE BILL NO. 1050
(Legislative Council)
(Interim Judiciary Committee)

GAMING PROCEEDS USES

AN ACT to amend and reenact subsection 7 of section 53-06.1-01 of the North Dakota Century Code, relating to the definition of eligible uses of net proceeds from charitable gaming.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 7 of section 53-06.1-01 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are:
 - a. To the extent used for purposes enumerated in subdivisions c through j 1, uses benefiting those organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.
 - b. To the extent used for purposes enumerated in subdivisions c through j 1, uses benefiting an organization registered with the North Dakota secretary of state under chapter 50-22.
 - c. Uses benefiting an indefinite number of persons ~~either~~ by bringing them under the influence of education, cultural programs, or religion ~~or relieving them of disease, suffering, or constraint 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 and athletic activities.

* NOTE: Section 53-06.1-01 was also amended by section 20 of Senate Bill No. 2001, chapter 28; by section 1 of Senate Bill No. 2063, chapter 546; and by section 1 of Senate Bill No. 2219, chapter 545.

- (7) Adult athletic activities, 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 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 and other nonprofit medical facilities.
 - (9) Social services and education programs aimed at aiding the emotionally and physically distressed, handicapped, and underprivileged.
- d- e. (1) Fraternal uses, consistent with uses and priorities enumerated in subdivisions c through l and section 53-06.1-02, specified by an organization's constitution, charter, or bylaws not of direct benefit to the eligible organization or any member thereof.
- (2) Fraternal uses or disbursements to perpetuate the memory and history of the dead.
- e- 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 are excluded from receiving charitable gaming funds under this subdivision or any other provision of this chapter.

- ~~f.~~ g. The erection or maintenance of public buildings or works, public utilities, or public waterworks.
- ~~g.~~ h. Uses otherwise lessening the burden of government which include disbursements to any entity that is normally funded by the city, county, state, or United States government and disbursements directly to a city, county, state, or the United States government, or any agency, political subdivision, or instrumentality thereof.
- ~~h.~~ 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 losses uncompensated by insurance.
- ~~i.~~ 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 uncompensated by insurance.
- ~~j.~~ 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 as a community service project if it promotes the common good, enhances the social welfare of the community, and benefits an indefinite number of persons. The specific goals of a community service project may be to develop or promote public services in areas such as education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, 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 and habitat enhancement program.

Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property owned or leased by an organization unless it is used exclusively for one or more of the stated eligible uses. ~~Uses~~ Eligible uses do not include any activities consisting of attempts to influence legislation, promote or oppose referendums or initiatives, or participation in any political campaign on behalf of any active official or person who is or has been a candidate for public office. In addition, the licensing authority may adopt rules to limit or restrict eligible use disbursements to ensure that funds are best utilized for educational, charitable, fraternal, religious, patriotic, or other public-spirited purposes.

CHAPTER 548

HOUSE BILL NO. 1051
(Legislative Council)
(Interim Judiciary Committee)

CHARITABLE GAMING LICENSURE

AN ACT to amend and reenact subsections 3 and 5 of section 53-06.1-03 and section 53-06.1-16 of the North Dakota Century Code, relating to the licensure of charitable gaming organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 3 and 5 of section 53-06.1-03 of the North Dakota Century Code are amended and reenacted as follows:

3. The attorney general shall license such organizations which that conform to the requirements of this chapter by issuing licenses as follows:
 - a. A class A license to an eligible organization licensed as a retail alcoholic beverage dealer in North Dakota that maintains a building for the use of its members and guests, and that offers meals or liquor, or both, as part of its operation that is prohibited because of its nature or purpose for existence from expending charitable gaming net proceeds for the organization's own purposes or benefit and is, therefore, required to disburse its net proceeds to beneficiaries for educational, charitable, patriotic, fraternal, religious, or other public-spirited uses.
 - b. A class B license to any other an eligible organization that is permitted because of its nature or purpose for existence to expend charitable gaming net proceeds for its own educational, charitable, patriotic, fraternal, religious, or other public-spirited uses. The attorney general may deny a class B license to an otherwise eligible organization if the organization is connected, directly or indirectly, to the holder of a North Dakota retail alcoholic beverage license. An eligible organization that qualifies for a class A license may not also be issued a class B license.
 - c. A class C license to an eligible organization that conducts games of chance on not more than two occasions per year, regardless of whether that organization is licensed as a retail alcoholic beverage dealer in this state.
 - d. The attorney general shall establish by rule no more than two additional classes of licenses based on the frequency of gaming, the types of games of chance conducted by the eligible

* NOTE: Section 53-06.1-03 was also amended by section 1 of House Bill No. 1597, chapter 549, and by section 22 of Senate Bill No. 2001, chapter 28.

organization, and the adjusted gross proceeds collected or expected to be collected by the eligible organization.

5. The attorney general may, by motion, based on reasonable ground or upon written complaint, suspend or revoke, under chapter 28-32, any license granted under this chapter for violations by the licensee, or any officer, director, agent, member, or employee of the licensee, of this chapter or any rule adopted under this chapter. Notwithstanding section 5-02-02, an eligible organization that possesses a license issued under chapter 5-02 may not have that license suspended, revoked, or denied in consequence of action taken under this subsection unless that organization conducts gaming determined to be in violation of chapter 12.1-28 or subsection 1 of section 53-06.1-07.

SECTION 2. AMENDMENT. Section 53-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-16. Violation of chapter or rule - Misdemeanor - Forfeiture of licensure - Ineligibility. Any person who knowingly makes a false statement in any application for a license or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, expenses, or uses resulting from games of chance conducted under this chapter, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any game of chance, or who violates any of the provisions of this chapter, any rule adopted under this chapter, or of any term of a license is guilty of a class A misdemeanor. If convicted, the person forfeits any license or authorizing resolution issued to it pursuant to this chapter and is ineligible to reapply for a license or authorization for a period of time to be determined by the attorney general. Notwithstanding section 5-02-02, an eligible organization that possesses a license issued under chapter 5-02 may not have that license suspended, revoked, or denied in consequence of action taken under this section.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 549

HOUSE BILL NO. 1597
(Representatives Williams, Wald, Oban)
(Senators David, Langley)

GAMING RENT, SITES, AND PULL TAB ASSISTANCE

AN ACT to amend and reenact subsection 4 of section 53-06.1-03, sections 53-06.1-03.2, 53-06.1-03.3, and 53-06.1-06 of the North Dakota Century Code, relating to the number of sites at which gaming may be conducted by certain organizations, rent limits for twenty-one and charitable gaming ticket sites, and conduct of pull tabs by employees of certain alcoholic beverage establishments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 4 of section 53-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

4. Games of chance may be operated or conducted only on premises or sites set forth in the application as follows:
 - a. ~~Glass A license applicants are limited to one location. A special permit for an alternate location may be granted by the attorney general for a single specific occasion per licensing year upon written request.~~
 - b. License applicants shall first secure approval of the proposed site or sites on which it intends to conduct games of chance under this chapter from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are located. This approval or permit, which may be granted at the discretion of the governing body, must accompany the license application to the attorney general. The governing body may charge a one hundred dollar fee for this permit.
 - c. Rented premises are subject to rules adopted by the attorney general.
 - d. c. Only one eligible organization at a time may be authorized to conduct games of chance at a specific location, except that a raffle drawing may be conducted for special occasions when one of the following conditions are met:
 - (1) When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
 - (2) Upon request of the licensee, the license is suspended for that specific day by the attorney general.

* NOTE: Section 53-06.1-03 was also amended by section 1 of House Bill No. 1051, chapter 548, and by section 22 of Senate Bill No. 2001, chapter 28.

- e. d. Licenses, rules of play, and state identification devices must be displayed on forms and in the manner specified in rules adopted by the attorney general.

SECTION 2. AMENDMENT. Section 53-06.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-03.2. Twenty-one sites - Limit on rent. For all purposes associated with the privilege of conducting games of chance at a site other than a site where bingo is the primary game of chance conducted, but where the game of twenty-one is conducted, the monthly rent may not exceed ~~one~~ two hundred ~~fifty~~ dollars multiplied by the number of tables on which the game of twenty-one is conducted.

SECTION 3. AMENDMENT. Section 53-06.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-03.3. Charitable gaming ticket sites - Limit on rent. For all purposes associated with the privilege of conducting games of chance at a site other than a site where bingo is the primary game of chance conducted, the monthly rent may not exceed:

1. If the game of twenty-one is conducted on the site, in addition to the rent allowable for the game of twenty-one, ~~fifty~~ one hundred twenty-five dollars.
2. If the game of twenty-one is not conducted on the site, ~~one~~ two hundred ~~fifty~~ twenty-five dollars.

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

53-06.1-06. Persons permitted to conduct games of chance - Premises - Equipment - Compensation.

1. No person, except a member or employee of an eligible organization or a member of an organization auxiliary to an eligible organization, may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of pull tabs, the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance to an authorized class B license holding eligible organization the adjusted gross proceeds of which do not exceed sixty thousand dollars per quarterly reporting period of operation or to any class A license holding eligible organization.
2. Except when authorized by the attorney general, no games of chance may be conducted with any gaming equipment other than gaming equipment owned by an eligible organization or rented at a reasonable rate by an eligible organization from a licensed distributor.
3. The governing board of an eligible organization is primarily responsible for the proper determination and distribution of the entire net proceeds of any game of chance held in accordance with this chapter.

* NOTE: Section 53-06.1-06 was also amended by section 23 of Senate Bill No. 2001, chapter 28; by section 27 of Senate Bill No. 2068, chapter 54; by section 2 of Senate Bill No. 2219, chapter 545; and by section 1 of Senate Bill No. 2541, chapter 550.

4. The premises where any game of chance is being held, operated, or conducted, or where it is intended that such game will be held, must be open to inspection by the licensing authority, its agents and employees, by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision of this state.
5. When any merchandise prize is awarded in a game of chance, its value is its current retail price.
6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at prices in excess of the usual price thereof.
7. The entire net proceeds derived from the holding of games of chance must be devoted within three months from the date such proceeds were earned to the uses permitted by this chapter. Any organization desiring to hold the net proceeds of games of chance for a period longer than three months from the date such proceeds were earned must apply to the licensing authority or governing body, as the case may be, for special permission, and upon good cause shown, the licensing authority or governing body may grant the request.
8. ~~Except at the temporary alternate site provided by subdivision a of subsection 3 of section 53-06-1-03, only the members of an organization licensed as a class A licensee by the attorney general under this chapter and their spouses and bona fide guests may participate in playing games of chance conducted by such licensed organization.~~
- ~~9.~~ No person convicted of a felony within the last two years, or determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter.
- ~~10.~~ 9. Any person involved with the conduct of games of chance must be:
 - a. A person of good character, honesty, and integrity.
 - b. A person whose prior activities, criminal record, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming.
- ~~11.~~ 10. The attorney general may prohibit a person from playing games of chance if the person violates any provision of this chapter or any rule adopted under this chapter.

Approved April 17, 1991
Filed April 18, 1991

CHAPTER 550

SENATE BILL NO. 2541
(Wogsland)

PULL TABS ASSISTANCE

AN ACT to amend and reenact subsection 1 of section 53-06.1-06 of the North Dakota Century Code, relating to persons permitted to conduct games of chance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 53-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. No person, except a member or employee of an eligible organization or a member of an organization auxiliary to an eligible organization, may assist in the holding, operating, or conducting of any game of chance under this chapter. The attorney general may allow employees of specific licensed alcoholic beverage establishments to provide limited assistance to authorized eligible organizations in the conduct of pull tabs at licensed gaming sites where adjusted gross proceeds do not exceed fifty thousand dollars per site per year.

Approved April 17, 1991
Filed April 18, 1991

- * NOTE: Section 53-06.1-06 was also amended by section 4 of House Bill No. 1597, chapter 549; by section 23 of Senate Bill No. 2001, chapter 28; by section 27 of Senate Bill No. 2068, chapter 54; and by section 2 of Senate Bill No. 2219, chapter 545.

CHAPTER 551

HOUSE BILL NO. 1138
(Committee on Judiciary)
(At the request of the Attorney General)

GAMING APPLICANT BACKGROUND INVESTIGATIONS

AN ACT to create and enact a new subsection to section 53-06.1-14 of the North Dakota Century Code, relating to the costs of background investigations of gaming applicants; and to amend and reenact section 51-15-10, subsection 2 of section 53-06.1-06.1, and section 54-12-18, relating to costs, expenses, attorney's fees, and costs of background investigations for gaming applicants recovered by the attorney general and deposited into a special fund; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-15-10 of the North Dakota Century Code is amended and reenacted as follows:

51-15-10. Costs recoverable. In any action brought under the provisions of this chapter, the attorney general is entitled to recover costs, expenses, and attorney's fees incurred by the attorney general in the investigation and prosecution of such action. In any inquiry or investigation initiated under this chapter in which fraud is determined, the attorney general may request and collect costs, expenses, and attorney's fees incurred by the attorney general in the inquiry or investigation. All costs, expenses, and attorney's fees received by the attorney general under this section must be deposited into the attorney general refund fund.

* SECTION 2. AMENDMENT. Subsection 2 of section 53-06.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general may establish a centralized statewide work permit system to determine the identity, prior activities, and present employment of all gaming employees in this state. The information must be held confidential except in the proper administration of this chapter or any rule adopted under this chapter, or to an authorized law enforcement agency. No gaming organization may employ any person or a gaming employee nor may any person be employed as a gaming employee unless that person possesses a current and valid work permit. The attorney general may issue, renew, deny, suspend, and revoke work permits. Subject to the attorney general's discretion, a temporary work permit may be issued. If an application is denied or a work permit is suspended or revoked, the notice by the attorney general must include a statement of the facts upon which the attorney general relied in making the decision. Any person whose application for a work permit has been denied may, not later than twenty days following receipt of the notice, apply to the attorney general for a hearing. A work permit expires unless renewed within fourteen

* NOTE: Subsection 2 of section 53-06.1-06.1 was also amended by section 3 of Senate Bill No. 2219, chapter 545.

days after a change of employment or if the person is not employed as a gaming employee within the state for more than ninety days. The attorney general may issue an emergency order, effective upon service to the permitholder, suspending a person's work permit upon a determination that the suspension is necessary to preserve effective regulation and control of gaming, to preserve the public interest or morals, or the person obtained a work permit by misrepresentation. The attorney general may charge each gaming employee an annual work permit fee of twenty-five dollars and a fee of five dollars for each change of employment. In addition to the basic permit fees, the attorney general may require payment of any additional fees necessary to defray the actual costs of a background investigation of applicants for whom adequate background information sources are not readily available, including applicants who have not resided in the state for at least one year. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the applicant as soon as possible after a determination is made that the additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. In lieu of paying the additional cost, any applicant may withdraw the application. The estimated cost must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of such funds must be returned to the applicant within thirty days of the conclusion of the investigation.

SECTION 3. A new subsection to section 53-06.1-14 of the 1990 Special Supplement to the North Dakota Century Code is created and enacted as follows:

In addition to the basic license fee, the attorney general may require payment of any additional fee necessary to defray the actual costs of a background investigation of applicants. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the applicant as soon as possible after a determination is made that the additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. Any applicant may then withdraw the application in lieu of paying the additional cost. The estimated cost must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of such funds must be returned to the applicant within thirty days of the conclusion of the investigation.

SECTION 4. AMENDMENT. Section 54-12-18 of the North Dakota Century Code is amended and reenacted as follows:

54-12-18. Special fund established - Continuing appropriation. A special fund is established in the state treasury and designated as the attorney general refund fund. The attorney general shall deposit all moneys recovered by the consumer fraud division for refunds to consumers in cases where persons or parties are found to have violated the consumer fraud laws, all costs, expenses, attorney's fees, and civil penalties collected by the

division regarding any consumer fraud or antitrust matter, and all cash deposit bonds paid by applicants for a transient merchant's license who do not provide a surety bond. The moneys in the fund are appropriated, as necessary, for the following purposes:

1. To provide refunds of moneys recovered by the consumer fraud and antitrust division on behalf of consumers;
2. To pay valid claims against cash deposit bonds posted by transient merchant licensees; ~~and~~
3. To refund, upon expiration of the two-year period after the expiration of the transient merchant's license, the balance of any cash deposit bond remaining after the payment of valid claims-;
4. To pay costs, expenses, and attorney's fees and salaries incurred in the operation of the consumer fraud division; and
5. To pay the actual costs of a background investigation of applicants for a gaming employee work permit.

At the end of each fiscal year any moneys in the fund in excess of the amounts required for subsections 1, 2, 3, and 5 must be deposited in the general fund. The attorney general, with the concurrence of the director of the office of management and budget, shall establish the necessary accounting procedures for use of the attorney general refund fund, particularly with respect to expenditures under subsection 4.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 552

HOUSE BILL NO. 1290
(Representatives Stofferahn, Kretschmar)
(Senators Lindgren, Kelsh)

PADDLEWHEELS

AN ACT to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to the conduct and play of the game of paddlewheels; and to amend and reenact subsection 1 of section 53-06.1-07, section 53-06.1-07.1, and subsection 3 of section 53-06.1-14 of the North Dakota Century Code, relating to allowing eligible organizations to conduct the game of paddlewheels, player age restriction, hours of conduct, and state gaming stamp requirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Paddlewheels. An eligible organization may conduct the game of paddlewheels on the authorized site. The eligible organization shall post at the site all rules affecting the conduct of paddlewheels and requirements of players. 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 or marker to indicate the winning number or symbol. The maximum price per paddlewheel ticket may not exceed two dollars. No money may be allowed on the playing table. A table must be used to register a player's wagered paddlewheel ticket when a cash prize is a variable multiple of the price of the paddlewheel ticket. No player may place more than ten paddlewheel tickets on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the current retail price of the merchandise prize to be awarded for a winning paddlewheel ticket may exceed one hundred dollars. The monthly rent for each paddlewheel playing table may not exceed the amount authorized by law for a twenty-one table.

SECTION 2. AMENDMENT. Subsection 1 of section 53-06.1-07 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Eligible organizations licensed by the attorney general shall be permitted to conduct bingo, raffles, calcuttas, charitable gaming tickets, punchboards, twenty-one, paddlewheels, and sports pools for professional sports only.

SECTION 3. AMENDMENT. Section 53-06.1-07.1 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.1. Limitations on hours and participation in games of chance. A person under twenty-one years of age may not participate in placing a wager in the games of charitable gaming tickets, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. A person under eighteen years of age not accompanied by an adult may not participate in the game of bingo unless the bingo game is locally authorized under section 53-06.1-03 or the game's prize structure does not exceed those allowed under section 53-06.1-03 for locally authorized games. The games of charitable gaming tickets, punchboards, twenty-one, paddlewheels, or sports pools may be conducted only during the hours when alcoholic beverages may be dispensed in accordance with applicable regulations of the state or the political subdivision.

* SECTION 4. AMENDMENT. Subsection 3 of section 53-06.1-14 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this chapter, unless the raffle tickets or equipment for games of chance are printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. No game of charitable gaming tickets, punchboards, sports pool boards, or a series of ~~raffle wheel~~ paddlewheel ticket cards may be sold without a North Dakota gaming stamp being affixed to them. North Dakota licensed distributors shall purchase the North Dakota gaming stamps from the attorney general's office and the cost for each stamp may not exceed twenty-five cents.

Approved March 20, 1991

Filed March 21, 1991

* NOTE: Section 53-06.1-14 was also amended by section 1 of House Bill No. 1052, chapter 554; by section 28 of Senate Bill No. 2001, chapter 28; and by section 5 of Senate Bill No. 2219, chapter 545.

CHAPTER 553

HOUSE BILL NO. 1053
(Legislative Council)
(Interim Judiciary Committee)

TIP POOLING

AN ACT to amend and reenact section 53-06.1-10 of the North Dakota Century Code, relating to the playing of twenty-one and pooling of tips received by twenty-one dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10. Twenty-one - Sale of chips - Redemption - Wager - Limit - Rules of play - Tips. Any licensee may conduct and control the playing of the card game twenty-one on the authorized site of the licensee, but at no other location. No money may be allowed on the table. The licensee shall provide playing chips of various denominations to the participants. Chips must be redeemed by the licensee for their full value. The maximum limit per wager may be set by the licensee or eligible 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. Twenty-one is a card game played by a maximum of seven players and one dealer. The dealer must be a representative of the eligible organization sponsoring the game of chance. Each player plays the player's hand against the dealer's hand. In order 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 termed a natural twenty-one and is an automatic payout except in case of a tie count with the dealer. Players may double down on a natural twenty-one. In the case of matching or tie count between the player and the dealer, no winner is declared and the player keeps the player's wager. A licensee may allow the pooling of tips received by dealers at an authorized site. Any requirement to pool tips is within the sole discretion of each licensee and may not be imposed or encouraged by the licensing authority. Each licensee conducting twenty-one shall post rules relating to the conduct of the game in a conspicuous location near where the game is played.

Approved April 10, 1991
Filed April 10, 1991

CHAPTER 554

HOUSE BILL NO. 1052
(Legislative Council)
(Interim Judiciary Committee)

CHARITABLE GAMING EQUIPMENT MANUFACTURERS

AN ACT to amend and reenact subsection 1 of section 53-06.1-14 of the North Dakota Century Code, relating to license fees for manufacturers of charitable gaming tickets and paper bingo cards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 53-06.1-14 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Every manufacturer of charitable gaming tickets, every manufacturer of paper bingo cards, and every distributor shall annually apply for a license upon a form prescribed by the attorney general before the first day of April in each year and shall submit the appropriate license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require. The license fee for a distributor is one thousand five hundred dollars, and the license fee for a manufacturer of charitable gaming tickets ~~or a manufacturer of~~, paper bingo cards, or both, is two thousand dollars.

Approved March 18, 1991
Filed March 19, 1991

- * NOTE: Section 53-06.1-14 was also amended by section 4 of House Bill No. 1290, chapter 552; by section 28 of Senate Bill No. 2001, chapter 28; and by section 5 of Senate Bill No. 2219, chapter 545.

CHAPTER 555

HOUSE BILL NO. 1253
(Cleary)

GAMES OF CHANCE CONDITIONAL LICENSES

AN ACT to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to the issuance of conditional licenses to conduct games of chance; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Conditional license - Issuance. The attorney general, upon application and at the attorney general's discretion, may issue a conditional license to conduct games of chance to an eligible organization whose regularly issued license has been suspended or revoked for a violation of this chapter. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions for issuance of the license as the attorney general determines necessary. Section 53-06.1-16.2 does not apply to an eligible organization to whom a conditional license is issued pursuant to this section.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 18, 1991
Filed March 19, 1991

CHAPTER 556

HOUSE BILL NO. 1260
(Representatives Tollefson, Kretschmar, Flaagan)
(Senators Langley, Krebsbach, Meyer)

PARIMUTUEL RACING EXPENSES

AN ACT to amend and reenact subsection 1 of section 53-06.2-01, subsection 7 of section 53-06.2-04, sections 53-06.2-05, 53-06.2-06, 53-06.2-10.1, and 53-06.2-11 of the North Dakota Century Code, relating to the definitions of breeders' fund and purse fund for parimutuel horse racing, duties and powers of the North Dakota racing commission, organizations eligible to conduct racing and simulcast parimutuel wagering, and payoff formulas for parimutuel wagering; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota bred horses that win races in the state as approved by the commission.

SECTION 2. AMENDMENT. Subsection 7 of section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

7. Exclude from ~~racecourses~~ racetracks or simulcast parimutuel wagering facilities any person who violates any rule of the commission or any law.

SECTION 3. AMENDMENT. Section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-05. Powers of commission. The commission may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter, and to discover and seize any evidence of noncompliance.

3. Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and horses that are lawfully on a racetrack.
4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. The commission may obtain from the bureau of criminal investigation, without charge, criminal history record information as required in the licensing process.
5. Adopt additional rules under which all horse races are conducted for the administration, implementation, and regulation of activities conducted pursuant to this chapter.

SECTION 4. AMENDMENT. Section 53-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-06. Organizations eligible to conduct racing and simulcast parimutuel wagering. Civic and service clubs, charitable, fraternal, religious, and veterans' organizations, and other public-spirited organizations may be licensed to conduct racing and simulcast parimutuel wagering as authorized by this chapter.

SECTION 5. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Offtrack Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, offtrack simulcast parimutuel wagering may be conducted in accordance with this chapter and interim standards that need not comply with chapter 28-32, or rules adopted by the commission under this chapter. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of offtrack simulcast parimutuel wagering on races held at licensed race courses racetracks inside the state or race courses racetracks outside the state, or both. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Any time that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction, and may allow parimutuel pools in other states to be combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Parimutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction, and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

SECTION 6. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses - Payment to general fund.

1. For each day of a live race meet at which the aggregate amount of the or a simulcast day in this state on win, place, and show parimutuel pool for the day exceeds twenty-five thousand dollars pools, the licensee shall deduct up to twenty percent of the total win, place, and show pool. The licensee may retain fifteen seventeen percent of the amount exceeding twenty five thousand dollars and sixteen percent of the amount less than twenty-five thousand dollars for expenses. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. The remaining four two percent of the amount exceeding twenty five thousand dollars, and three percent of the amount less than twenty five thousand dollars, must be paid to the state treasurer to be deposited in the general fund.
2. For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty-five percent of each wagering pool. Of this amount, the licensee may retain twenty twenty-one percent for expenses. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. The remaining four three percent must be paid to the state treasurer to be deposited in the general fund.
3. Unclaimed tickets and breakage from each live race meet as defined by the commission must be paid to the state treasurer as prescribed by the commission must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Unclaimed tickets and breakage from the simulcast program, as defined by the commission, must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission.
4. The licensee conducting a live race meet or simulcast program shall retain all other money in the parimutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate

system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 7 of section 53-06.1-01.

6. The racing commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 in three special funds in the state treasury. These funds must be known as the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 6, 1991

Filed April 8, 1991

CHAPTER 557

SENATE BILL NO. 2354
(Senators O'Connell, Meyer, Streibel)
(Representatives Skar, Thorpe, Kolbo)

RACING COMMISSION MEMBERS

AN ACT to amend and reenact subsection 1 of section 53-06.2-02 of the North Dakota Century Code, relating to membership of the racing commission; and to provide for transition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission consists of the chairman and four other members appointed by the governor, ~~with the consent of the senate.~~ Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. 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. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.

SECTION 2. TRANSITION. The governor shall appoint a new member to the commission as provided in section 1 of this Act upon the expiration of the term of each member serving on the effective date of this Act.

Approved April 5, 1991
Filed April 8, 1991

* NOTE: Subsection 1 of section 53-06.2-02 was also amended by section 1 of Senate Bill No. 2105, chapter 558.

CHAPTER 558

SENATE BILL NO. 2105
(Committee on State and Federal Government)
(At the request of the Governor)

RACING COMMISSION CONFIRMATION ELIMINATED

AN ACT to amend and reenact subsection 1 of section 53-06.2-02 of the North Dakota Century Code, relating to removal of the requirement of senate confirmation of the appointment of members to the racing commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 1 of section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission consists of the chairman and four other members appointed by the governor, ~~with the consent of the senate~~. The members serve five-year terms and until a successor is appointed and qualified. 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. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.

Approved March 14, 1991
Filed March 15, 1991

- * NOTE: Subsection 1 of section 53-06.2-02 was also amended by section 1 of Senate Bill No. 2354, chapter 557.

CHAPTER 559

SENATE BILL NO. 2193
(Committee on Judiciary)
(At the request of the North Dakota Racing Commission)

BREEDERS' AND PURSE FUNDS INVESTMENT

AN ACT to create and enact a new subsection to section 53-06.2-11 of the North Dakota Century Code, relating to investment of the breeders' fund and purse fund and the use of income generated; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 53-06.2-11 of the North Dakota Century Code is created and enacted as follows:

The racing commission shall deposit the moneys received pursuant to subsections 1 and 2 in two special funds in the state treasury. These funds must be known as the breeders' fund and the purse fund. Moneys, and any earnings on the moneys, in the special breeders' and purse funds are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 560

HOUSE BILL NO. 1270
(Representatives Thompson, Boehm)
(Senator O. Hanson)

EQUINE ACTIVITY LIABILITY LIMITATION

AN ACT to create and enact a new chapter to title 53 of the North Dakota Century Code, relating to the limitation of liability of an equine activity sponsor or an equine professional; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 53 of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Engages in an equine activity" means a person who rides, trains, drives, or is a passenger upon an equine, whether mounted or unmounted, and does not mean a spectator in equine activity or a person who participates in the equine activity but does not ride, train, drive, or ride as a passenger upon an equine.
2. "Equine" means a horse, pony, mule, donkey, or hinny.
3. "Equine activity" means:
 - a. An equine show, fair, competition, performance, or parade that involves any breed of equine in any equine discipline, including dressage, a hunter and jumper horse show, grand prix jumping, a three-day event, combined training, a rodeo, driving, pulling, cutting, polo, steeplechasing, endurance, trail riding, guided trail rides, pleasure trail riding, wagon and buggy rides, and western games, and hunting;
 - b. An equine training or teaching activity;
 - c. Boarding an equine;
 - d. Riding, inspecting, or evaluating an equine belonging to another whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;
 - e. A ride, trip, hunt, or other equine activity of any type however informal or impromptu that is sponsored by an equine activity sponsor.

4. "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facility for an equine activity including but not limited to: a pony club, 4-H club, hunt club, riding club, school or college-sponsored class or program, therapeutic riding program, and an operator, instructor, or promotor of an equine facility including but not limited to a stable, clubhouse, pony ride string, fair, or arena at which the activity is held.
5. "Equine professional" means a person engaged for compensation in:
 - a. Instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon an equine; or
 - b. In renting equipment or tack to a participant.
6. "Participant" means any person, whether amateur or professional, who directly engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

Liability of equine activity sponsor or equine professional limited.

1. Except as provided in subsection 2, an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity, and, except as provided in subsection 2, no participant or participant's representative may maintain an action against or recover from an equine activity sponsor or an equine professional for an injury to or the death of a participant engaged in an equine activity. This chapter does not apply to the horse racing industry as regulated in chapter 53-06.2.
2. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor or an equine professional:
 - a. If the equine activity sponsor or the equine professional:
 - (1) Provided the equipment or tack and the equipment or tack caused the injury; or
 - (2) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity, to determine the ability of the equine to behave safely with the participant, and to determine the ability of the participant to safely manage the particular equine;
 - b. If the equine activity sponsor or the equine professional owns, leases, rents, or otherwise is in lawful possession and control of the land or facility upon which the participant sustained an injury because of the dangerous latent condition which was known to or should have been known to the equine activity sponsor or the equine professional and for which a warning sign has not been conspicuously posted;

- c. If the equine activity sponsor or the equine professional commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused the injury;
- d. If the equine activity sponsor or the equine professional intentionally injures the participant;
- e. Under products liability provisions as set forth in products liability laws; or
- f. Under liability provisions in chapter 36-11.

SECTION 2. APPLICATION OF ACT. This Act applies only to causes of action filed on or after the effective date of this Act.

Approved March 27, 1991
Filed March 28, 1991