

SPORTS AND AMUSEMENTS

CHAPTER 471

SENATE BILL NO. 2196
(Freed)

MUSIC FESTIVALS

AN ACT to amend and reenact subsection 1 of section 53-02-01 and section 53-02-08 of the North Dakota Century Code, relating to the definition of a music festival and to law officers required to be present at public dances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 53-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A "music festival" shall mean a musical performance by one or more groups held out-of-doors, whether or not an admission fee is charged.

SECTION 2. AMENDMENT.) Section 53-02-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-02-08. OFFICER OF LAW TO BE IN ATTENDANCE AT PUBLIC DANCE OR MUSIC FESTIVAL.) It shall be the duty of the sheriff in any county in which any public dance or music festival is held outside of an incorporated city, and of the chief peace officer of the city where the dance or music festival is held within the limits of a city, to police such dance or music festival so that law and order are there maintained. The sheriff or the chief peace officer shall determine the number of deputy sheriffs or special officers needed to police the dance or music festival properly. The person conducting any such dance or music festival, before the dance or music festival shall be held, shall pay to such sheriff or peace officer the expense of any deputy sheriff or special officer required for the proper policing of such dance or music festival, and no such dance or music festival shall be permitted to proceed unless such officer or officers are present and fees therefor are paid. The holding of such dance or music festival without giving notice thereof to the sheriff of the county or the peace officer of the city, and without making provision for the policing thereof, is unlawful. No person, directly or indirectly interested or concerned in the giving, holding, or conducting of such public dance or music festival, or connected with the person conducting the same, shall be eligible to appointment under this section as a special officer.

Approved March 23, 1977

CHAPTER 472

HOUSE BILL NO. 1239
(Committee on Industry, Business and Labor)
(At the request of the Attorney General)

DANCE HALL AND PRIVATELY OWNED PUBLIC HALL LICENSE ELIMINATED

AN ACT to amend and reenact sections 53-06-01 and 53-06-08 of the North Dakota Century Code, relating to the licensing of dance halls, and halls owned privately and used for public purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 53-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06-01. LICENSE REQUIRED - LIMITATION AS TO THEATER LICENSE.) No pool hall, billiard room, bowling alley, theater, nor moving picture show shall be opened, maintained, operated, or conducted within this state unless the owner, proprietor, or managing agent thereof first shall secure a license so to do in the manner in this chapter prescribed. No new license shall be issued for the operation of a moving picture show in any city of this state where one or more moving picture shows now are being operated under license from the state unless it is established to the satisfaction of the licensing authority that the public needs will be more adequately served by the issuance of such additional license, or unless the applicant for such license purchases or leases one of the moving picture shows then in operation.

SECTION 2. AMENDMENT.) Section 53-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06-08. LICENSE FEES.) The annual license fees for the places and businesses required to be licensed under this chapter shall be as follows:

1. A pool or billiard room, five dollars per table per year;
2. Bowling alleys, five dollars per alley per year;
3. Theater or moving picture show, five dollars per year where there are not more than fifty seats, ten dollars per year where there are not more than seventy-five seats, fifteen dollars per year where there are not more than one hundred

seats, and four dollars per year for each one hundred seats thereafter, or for a fraction thereof.

Where a theater and moving picture show are operated in one building under the same management, one license shall be sufficient, but in such case the larger in amount of the two licenses shall be paid.

Approved April 20, 1977

CHAPTER 473

HOUSE BILL NO. 1264
(Strinden, Backes, Kretschmar)

GAMES OF CHANCE

AN ACT to allow nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and public-spirited organizations to conduct games of chance; and providing for definitions, licensure by the attorney general, city and county approval in certain instances, restrictions on the conduct of games of chance, bookkeeping requirements, expense requirements, examination of books and records, licensure of distributors, a tax based on expenses, an expiration date, and a criminal penalty for violation of this Act; to amend and reenact sections 12.1-28-01 and 12.1-28-02 of the North Dakota Century Code, relating to gambling definitions and classification of gambling offenses; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.)

1. "Adjusted gross proceeds" means gross proceeds less cash prizes or the price of merchandise prizes.
2. "Bingo" means that game of chance in which each participant receives one or more cards each of which is marked off into twenty-five squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each. Each square is designated by number, letter, or combination of numbers and letters, no two cards being identical. The players cover squares as the operator of such game announces the number, letter, or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first properly covering a predetermined and announced pattern of squares on a card being used by the player or players.

3. "Bingo equipment" means the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designation to be covered and the objects used to cover them, the board or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of bingo.
4. "Bona fide guest" means a person who is not a member of an eligible organization, but who is allowed to use the facilities of the organization when invited by a member or the organization in accordance with the eligible organization's bylaws, articles of incorporation, charter, rules, or other written statement.
5. "Charitable organization" means any nonprofit organization operated for the relief of poverty, distress, or other condition of public concern within this state, which has been so engaged within this state for two years.
6. "Civic and service club" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, which shall have existed in this state for two years. "Civic and service club" shall also mean a similar local nonprofit organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if such organization conducts its principal activities outside the limits of a city but within a county. Such club shall have existed in this state for two years.
7. "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 that may be used in the lawful conduct of games of chance under this Act to an organization licensed or authorized to conduct such games of chance under this Act. "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.
8. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are: uses benefiting an

indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint; fraternal uses specified by an organization's constitution, charter, or bylaws, not of direct benefit to the eligible organization or any member thereof; 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; the erection or maintenance of public buildings or works; or uses otherwise lessening the burden of government. Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property unless it is used exclusively for one or more of the stated uses. Uses shall not include any activities consisting of attempts to influence legislation or participation in any political campaign on behalf of any elected official or person who is or has been a candidate for public office. "Charitable uses" include 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 uncompensated by insurance, and 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.

9. "Educational organization" means any nonprofit public or private elementary or secondary school in this state which has been in existence for two years.
10. "Eligible organization" means bona fide nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and other public-spirited organizations as defined by this Act, which may be licensed by the attorney general or authorized by the governing body of a city or county to conduct games of chance under this Act.
11. "Entire net proceeds" means the adjusted gross proceeds less such expenses, charges, fees, and deductions as are specifically authorized under this Act.
12. "Fraternal organization" means a nonprofit organization within this state, except for college and high school fraternities, which is a branch or lodge or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. Such organization shall have existed within this state for two years.
13. "Game of chance" means a game, contest, scheme, or device

in which a person stakes or risks something of value for an opportunity to win something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestant or participant may also be a factor therein. For purposes of this Act, "games of chance" shall specifically mean and be limited to bingo, raffles, pull tabs, jars, and punchboards.

14. "Gross proceeds" means all moneys collected or received from games of chance and admissions thereto.
15. "Jar" means a vessel containing a number of pull tabs from which a participant selects a particular pull tab after paying some consideration to an operator for the opportunity of making the selection.
16. "Licensee" means an eligible organization licensed under the provisions of this Act.
17. "Licensing authority" means the attorney general.
18. "Member" means a person who has qualified for and been admitted to membership in an eligible organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement, and who pays regular monthly, annual, or other periodic dues or is a fully paid life member of the eligible organization. "Member" includes auxiliary members, but excludes social and honorary members.
19. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of a city or county by resolution as public-spirited and eligible to conduct games of chance under this Act.
20. A "pull tab" is a single-folded or banded ticket or is a card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, a few of which numbers or symbols out of every set of pull tabs have been designated in advance and at random as prize winners, for which, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon, and possibly obtain a prize-winning pull tab, a person pays some consideration to an operator.
21. "Punchboard" means a board or device containing a number of holes or receptacles of uniform size in which are placed mechanically and at random serially numbered slips of paper or other substance which may be punched or drawn from said hole or receptacle by any person desiring to do so, and which the public, upon payment of a consideration, may punch or draw such numbered slips of paper or other substance from such holes or receptacles and obtain an award if the number drawn corresponds to a winning number.

22. "Raffle" means a game of chance in which the prize or prizes, other than cash, are won by one or more of numerous persons buying chances. The winner is determined by drawing a number or numbers from a container holding numbers representative of all chances sold. The date of the drawing, the prize or prizes to be awarded, the name of the organization, the name of the licensing or authorizing authority, the license or authorizing resolution number, and the price of the chance shall be clearly printed on the raffle tickets which shall be numbered consecutively.
23. "Religious organization" means any nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances which has been so gathered or united in this state for two years.
24. "Veterans organization" means any congressionally chartered organization within this state, or any branch or lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. Such organization shall have been in existence in this state for two years.

SECTION 2. ORGANIZATIONS ELIGIBLE UNDER ACT - USE OF PROCEEDS.) Nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and public-spirited organizations, as those terms are defined by this Act, are eligible to conduct games of chance under the conditions of this Act. The entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this Act.

SECTION 3. LICENSURE - FEES - APPLICATION - SUSPENSION - REVOCATION.) An eligible organization maintaining a building for the use of its members and guests, which organization offers meals or liquor or both as part of its operation, shall annually apply for a license to conduct games of chance from the attorney general before the first day of April in each year. Application shall be made upon forms prescribed by the attorney general along with submission of a fifty dollar license fee.

The application shall be signed and sworn to by the applicant and shall contain the following:

1. The name and post-office address of the applicant.
2. The location at which the organization will conduct the games of chance, whether the organization owns or leases the premises, and a copy of the rental agreement if it leases the premises.

3. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
4. A statement of the educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the proceeds of a game of chance will be devoted.
5. Such other necessary and reasonable information as the attorney general may require.

The attorney general shall license such organizations which conform to the requirements of this Act to conduct games of chance. In addition, the attorney general shall have the power, on his own motion based on reasonable grounds or on written complaint, to suspend or revoke a license in accordance with chapter 28-32 for violation, by the licensee or any officer, director, agent, member, or employee of such licensee, of this Act or any rule or regulation promulgated hereunder.

SECTION 4. CITY AND COUNTY APPROVAL FOR OTHER THAN LICENSED GAMES OF CHANCE.) Any other eligible organization, not regulated under section 3, shall apply in writing to the governing body of the city in which it conducts its principal activities for permission to conduct games of chance in such city at least thirty days prior to each occasion stating the particular game of chance, time, place, and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the proceeds will be devoted. The governing body may at its own discretion and upon application by an eligible organization grant permission for such games for specifically designated times, places, and uses, covering a period of one year. Where games of chance are proposed to be conducted within a county but outside the limits of a city, such eligible organization shall apply in writing to the board of county commissioners in the same manner as above. The governing body may by ordinance or resolution establish authorization fees not to exceed ten dollars for an authorization for one occasion and not to exceed twenty-five dollars for an authorization covering more than one occasion. If the governing body, at its own discretion, chooses to authorize such types of games of chance, the governing body shall authorize such organization which conforms to the requirements of the Act to conduct such games on such occasion. A copy of each resolution or permit granted by a city or county under this Act shall be sent to the attorney general not later than thirty days after issuance.

The governing body shall have the power, on its own motion based on reasonable grounds or on written complaint, to suspend or revoke an authorization in accordance with chapter 28-32 for violation, by the authorized organization or any officer, director, agent, member, or employee of such organization, of this Act or any rule or regulation promulgated hereunder.

SECTION 5. PERSONS PERMITTED TO CONDUCT GAMES OF CHANCE - PREMISES - EQUIPMENT - EXPENSES - COMPENSATION:.)

1. No person, except a member of an eligible organization may hold, operate, or conduct any game of chance under this Act.
2. No person, except a member 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 Act.
3. No item of expense shall be incurred or paid in connection with the holding, operating, or conducting of any game of chance held, operated, or conducted pursuant to this Act, except bona fide expenses in reasonable amounts as provided under section 8. No games of chance shall be conducted with any equipment other than equipment owned by or rented at a reasonable rate from an eligible organization.
4. The governing board of an eligible organization shall be primarily responsible for the proper utilization of the entire net proceeds of any game of chance held in accordance with this Act.
5. The premises where any game of chance is being held, operated, or conducted, or where it is intended that such game will be held, shall be open to inspection by the licensing authority, its agent and employees, by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision of this state.
6. When any merchandise prize is awarded in a game of chance, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash directly or indirectly.
7. Equipment, prizes, and supplies for games of chance shall not be purchased or sold at prices in excess of the usual price thereof.
8. The entire net proceeds derived from the holding of games of chance must be devoted within one year from the date such proceeds were earned to the uses permitted by this Act. Any organization desiring to hold the net proceeds of games of chance for a period longer than one year 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.
9. Only the members of an organization licensed by the attorney general under this Act and their spouses and bona fide guests may participate in playing games of chance conducted by such licensed organization.

10. No person, firm, corporation, association, or organization convicted of a felony or a class A misdemeanor, or determined by the attorney general to have participated in organized crime or unlawful gambling, shall be permitted to sell, distribute, conduct, or assist in games of chance under this Act.

SECTION 6. BINGO GAMES - METHOD OF PLAY.)

1. The equipment used in the playing of bingo and the method of play shall be such that each card shall have an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance, and all other characteristics which may include their selection. All objects or balls shall be present in the receptacle before each game is begun. All numbers announced shall be plainly and clearly audible or visible to all the players present. Where more than one room is used for any one game, the receptacle and the caller must be present in the room where the greatest number of players are present and all numbers announced shall be plainly audible or visible to the players in the other room or rooms. The card or sheet of the players shall be part of a deck, group, or series of cards or sheets, no two of which shall be alike. Such deck, group, or series shall not be so prepared or arranged as to prefer any card or sheet.
2. The particular arrangement of numbers required to be covered in order to win the bingo game and the prize shall be clearly and audibly or visibly described and announced to the players immediately before each game is begun.
3. Any player shall be entitled to call for a verification of all numbers drawn at the time a bingo winner is determined, and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the member designated to be in charge of the occasion, but if such member is also the caller, then in the immediate presence of an officer of the eligible organization.
4. No person who is not physically present on the premises where the bingo game is actually conducted shall be allowed to participate as a player in the game.
5. No person shall act as a caller or assistant to the caller in the conduct of any game of bingo unless such person is a member of the eligible organization conducting such game or a member of an organization auxiliary to the licensee.

SECTION 7. PUNCHBOARDS AND JARS - SALE OF CHANCES.) No person or organization engaged in the selling of chances from jars or punchboards under this Act shall discard the chances from any jar or punchboard once the contents of such jar or punchboard are offered for sale to eligible participants, unless all of the highest denomination of winners have been sold.

SECTION 8. STATEMENT OF RECEIPTS - EXPENSES.)

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of less than one hundred dollars paid immediately, shall be deposited in a special account of the eligible organization which shall contain only such money. Cash prizes of one hundred dollars or more, the purchase prices of merchandise prizes, and all expenses for such games of chance shall be withdrawn from such account by consecutively numbered checks duly signed by a specified officer or officers of the eligible organization and payable to a specific person or organization. There shall also be written on the check the nature of the expense or prize for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee.
2. No part of the net proceeds after they have been given over to another organization shall be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting of games of chance by the donor organization.
3. No item of expense shall be incurred or paid in connection with holding, operating, or conducting any game of chance pursuant to this Act, except bona fide expenses of a reasonable amount actually and necessarily incurred and directly attributable only to the conduct of the games of chance, and shall not include overhead, capital costs, and general maintenance. Total expenses for games of chance shall not exceed one-third of the total adjusted gross proceeds from each such occasion.
4. Expenses for games of chance shall be incurred only for the following purposes:
 - a. The purchase of necessary goods, wares, and merchandise.
 - b. Payment for services rendered which are reasonably necessary for repair of equipment, and for operating or conducting games of chance.
 - c. For rent if the premises or equipment are rented, or for janitorial services if premises are not rented.
 - d. Accountant's fees.
 - e. License fees.

f. Utility expenses.

g. Taxes.

For purposes of this subsection, the following terms shall have the following meanings: "goods, wares, and merchandise" means bingo equipment, jars, pull tabs, punchboards, and raffle tickets as defined by section 1, articles of a minor nature such as pencils, crayons, tickets, envelopes, paper clips, and coupons necessary to the conduct of games of chance; "services rendered" means repair to equipment, reasonable compensation to members for conducting games of chance, and to bookkeepers or accountants, not more than two in the aggregate, for services in preparing financial reports, and a reasonable amount for rental of premises, utilities, and for janitorial service.

SECTION 9. TAX BASED ON TOTAL EXPENSES.) A tax of three percent of the total adjusted gross proceeds received by a licensed eligible organization shall be paid to the licensing authority for deposit in the general fund before April first of each year for the preceding calendar year in such manner and upon such forms as shall be prescribed by the licensing authority by rule and regulation.

SECTION 10. EXAMINATION OF BOOKS AND RECORDS.) The licensing authority and its agents, and representatives of the governing body of a city or county shall have the power to examine or cause to be examined the books and records of any eligible organization licensed or authorized to conduct games of chance under this Act so far as such books and records relate to any transaction connected with the holding, operating, and conducting of any game of chance.

SECTION 11. DISTRIBUTORS - LICENSURE.) 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 a one thousand dollar license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require.

Every nonresident manufacturer or distributor of raffle tickets or equipment for games of chance doing business in this state shall appoint a North Dakota agent who shall be licensed as a distributor.

No distributor shall sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to eligible organizations.

Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this Act, unless the raffle ticket 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. At no time shall any eligible organization print, manufacture, or construct any raffle tickets or equipment for games of chance for sale

to any other eligible organization.

No licensed or authorized eligible organization shall be a distributor.

The attorney general shall have the power, on his own motion based on reasonable grounds or on written complaint, to suspend or revoke a license in accordance with chapter 28-32 for violation, by the licensee or any officer, director, agent, member, or employee of such licensee, of this Act or any rule or regulation promulgated hereunder.

SECTION 12. FORM AND DISPLAY OF LICENSE.) Each license or authorization required under this Act shall contain a statement of the name and address of the licensee or authorized eligible organization and such other information as the licensing or authorizing authority may designate.

Each license or resolution issued for the conduct of any game or games of chance shall be conspicuously displayed at the place where the same is to be conducted at all times during any game of chance and for at least thirty minutes thereafter. The sale of a raffle ticket shall not require the display of the license or authorizing resolution.

SECTION 13. VIOLATION OF ACT - MISDEMEANOR - FORFEITURE OF LICENSE - INELIGIBILITY FOR YEAR.) 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 Act, 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 Act, any rule or regulation promulgated hereunder, or of any term of a license shall be guilty of a class A misdemeanor. If convicted, such organization or person shall forfeit any license or authorizing resolution issued to it pursuant to this Act and shall be ineligible to reapply for a license or authorization for two years thereafter.

SECTION 14. RULES AND REGULATIONS.) The licensing authority may promulgate rules and regulations in accordance with chapter 28-32 of the North Dakota Century Code, relating to methods of play, conduct, and promotion of games of chance; methods, procedures, and minimum standards for accounting and record keeping; requiring reports by licensees and authorized organizations; methods of competition and doing business by distributors; and marking or identification of raffle tickets, bingo equipment, jars, pull tabs, punchboards, or any other implements of gambling used or distributed in this state; in order to implement or effectuate the provisions and purposes of this Act; to ensure that the entire net proceeds of games of chance are devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this Act; to protect and promote the public interest; to ensure fair and honest games of chance; to ensure that fees and taxes are paid; and to seek to prevent or detect unlawful gambling activity.

SECTION 15. EXPIRATION DATE.) The provisions of this Act shall expire at twelve midnight on June 30, 1979.

SECTION 16. AMENDMENT.) Section 12.1-28-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-28-01. GAMBLING - DEFINITIONS.) As used in this chapter:

1. "Gambling" means risking any money, credit, deposit, or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:
 - a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries; or
 - b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law.
2. "Lottery" means any plan for the distribution of a thing of value, whether tangible or intangible, or a person or persons selected by chance from among participants, some or all of whom have given a consideration for the chance of being selected.
3. "Gambling apparatus" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling apparatus does not include an amusement game or device as defined in section 53-03-01.
4. "Gambling house" means any location or structure, stationary or movable, wherein gambling is permitted or promoted, or where a lottery is conducted or managed. In the application of this definition, any place where gambling apparatus is found is presumed to be a gambling house, provided that this presumption shall not apply where cards, dice, or other games are found in a private residence.

SECTION 17. AMENDMENT.) Section 12.1-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-28-02. GAMBLING - RELATED OFFENSES - CLASSIFICATION OF OFFENSES.) Except as permitted by law:

1. It shall be an infraction to engage in gambling.

2. It shall be a class A misdemeanor to:
 - a. Sell, purchase, receive, or transfer a chance to participate in a lottery; or
 - b. Disseminate information about a lottery with intent to encourage participation in it.
3. Subsection 2 shall apply to a lottery drawn or to be drawn outside of this state, whether or not such lottery is lawful in such other state or country.
4. A person is guilty of a class C felony if he engages or participates in the business of gambling. Without limitation, a person shall be deemed to be engaged in the business of gambling if he:
 - a. Conducts a wagering pool or lottery;
 - b. Receives wagers for or on behalf of another person;
 - c. Alone or with others, owns, controls, manages, or finances a gambling business;
 - d. Knowingly leases or otherwise permits a place to be regularly used to carry on a gambling business or maintain a gambling house;
 - e. Maintains for use on any place or premises occupied by him a coin-operated gaming device; or
 - f. Is a public servant who shares in the proceeds of a gambling business whether by way of a bribe or otherwise.
5. a. As used in subsection 4, the term "coin-operated gaming device" means any machine which is:
 - (1) A so-called "slot" machine which operates by means of the insertion of a coin, token, or similar object and which, by application of the element of chance, may deliver, or entitle the person playing or operating the machine to receive cash, premiums, merchandise, or tokens; or
 - (2) A machine which is similar to machines described in paragraph (1) and is operated without the insertion of a coin, token, or similar object.
- b. The term "coin-operated gaming device" does not include a bona fide vending or amusement machine in which gambling features are not incorporated as defined in section 53-04-01.

SECTION 18. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Not approved or disapproved by the Governor

Filed April 22, 1977