

SPORTS AND AMUSEMENTS

CHAPTER 607

HOUSE BILL NO. 1074
(Kloubec)

BOXING AND WRESTLING EXHIBITION TAX

AN ACT to amend and reenact sections 53-01-07, 53-01-09, 53-01-10, 53-01-12, 53-01-13, 53-01-15, 53-01-16, 53-01-18, and 53-01-19 of the North Dakota Century Code, relating to removal of the five percent gross receipts tax on boxing, sparring, and wrestling exhibitions, and to removal of regulatory authority of the secretary of state over wrestling exhibitions; and to repeal sections 53-01-11 and 53-01-14 of the North Dakota Century Code, relating to the bond required and inspection of records for payment of the five percent gross receipts tax on boxing, sparring, and wrestling exhibitions.

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

SECTION 1. AMENDMENT. Section 53-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Make rules ~~and regulations~~ governing the conduct of boxing, or sparring, ~~and wrestling~~ exhibitions.
2. Issue licenses to individuals or organizations desiring to promote or conduct such exhibitions and suspend or revoke such licenses at pleasure.
- 3- ~~Collect five percent of the gross receipts from admissions to boxing, sparring, and wrestling exhibitions held within the state.~~

The provisions of this chapter shall not apply to any boxing, or sparring, ~~or wrestling~~ exhibitions the net proceeds of which are to be devoted to charitable purposes.

SECTION 2. AMENDMENT. Section 53-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-09. Moneys paid into state treasury - Disbursement. All moneys collected by the secretary of state pursuant to the provisions of this chapter shall be paid into the state treasury and shall be disbursed only as other state funds are disbursed by law. The percentage of admissions collected by the secretary of state, as provided in subsection 3 of section 53-01-07, shall be paid into the state treasury at such times and in such manner as the state treasurer may direct.

SECTION 3. AMENDMENT. Section 53-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-10. Application for license - Terms of license. Every application for a license to promote or conduct boxing, or sparring, and wrestling exhibitions, shall designate the territory in which the licensee may operate. Unless revoked by the secretary of state, the license granted as provided in this chapter shall authorize the individual or organization receiving the same to conduct boxing, or sparring, and wrestling exhibitions in the community designated therein, and no other, for the period of time specified, subject to the rules and regulations of the secretary of state and such restrictions as the secretary of state in his discretion may incorporate therein.

SECTION 4. AMENDMENT. Section 53-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-12. Annual license fee for exhibitions. The secretary of state, at the time of the issuance of the license, shall collect an annual license fee for the holding of boxing, or sparring, and wrestling exhibitions, pursuant to the following schedule:

- 1. Municipalities of ten thousand or more population \$35.00
- 2. Municipalities of from five thousand to ten thousand population 15.00
- 3. Municipalities of from one thousand to five thousand population 10.00
- 4. Municipalities of less than one thousand population 5.00

SECTION 5. AMENDMENT. Section 53-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-13. Restrictions on licensee. No person or organization with a license to promote or conduct boxing, or sparring, and wrestling exhibitions shall engage directly or indirectly in the managing of any boxer or wrestler. No boxing, or sparring, or wrestling exhibition shall be held on Sunday, nor shall any such exhibition have a duration of more than fifteen rounds of three minutes each.

SECTION 6. AMENDMENT. Section 53-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-15. Licensing of boxers, wrestlers, managers, and referees - Fee. The secretary of state may license all boxers, wrestlers, managers, and referees, and may require them to pay an annual fee not to exceed the sum of five dollars.

SECTION 7. AMENDMENT. Section 53-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-16. Amateur and professional exhibitions. The secretary of state shall make rules and regulations to govern the holding of amateur and professional boxing and wrestling exhibitions within the state. Such rules and regulations shall conform, wherever practicable, to the rules and regulations prescribed by the New York boxing commission. The promoter or holder of any bout for which any charge is made or money collected shall be liable for five percent of the gross receipts as provided in subsection 3 of section 53-01-07.

SECTION 8. AMENDMENT. Section 53-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-18. Certain organizational and institutional matches exempt. All boxing, or sparring, and wrestling exhibitions conducted or promoted by the high schools, the schools of higher learning, or amateur boxing, or sparring, and wrestling sponsored by nonprofit organizations in this state, and those participating therein, shall be exempted from the provisions of this chapter.

SECTION 9. AMENDMENT. Section 53-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. 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, or wrestling 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; or
 - 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,

shall be guilty of a class B misdemeanor. This section shall not apply to boxing or sparring ~~or wrestling~~ exhibitions held or to be held under a license issued by the secretary of state in keeping with the rules and regulations prescribed.

SECTION 10. REPEAL. Sections 53-01-11 and 53-01-14 of the North Dakota Century Code are hereby repealed.

Approved March 13, 1987
Filed March 16, 1987

CHAPTER 608

SENATE BILL NO. 2461
(Maixner, Vosper, Bakewell, D. Meyer, Waldera)

POKER

AN ACT to create and enact a new section to chapter 53-06.1 and a new subsection to section 53-06.1-07 of the North Dakota Century Code, relating to conduct of certain games of chance; and to amend and reenact subsection 1 of section 53-06.1-01 of the North Dakota Century Code, relating to definitions applicable to the charitable gambling law.

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

SECTION 1. AMENDMENT. Subsection 1 of section 53-06.1-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Adjusted gross proceeds" means, except in the case of the games of draw poker and stud poker authorized under section 3 of this Act, gross proceeds less cash prizes or the price of merchandise prizes. In the games of draw poker and stud poker, "adjusted gross proceeds" means the share of the pot retained by the eligible organization.

SECTION 2. A new subsection to section 53-06.1-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Draw poker and stud poker in accordance with section 3 of this Act.

SECTION 3. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Draw poker and stud poker - Limited authorization. An eligible organization may conduct the game of draw poker on not more than two occasions per year as follows:

1. The eligible organization may supply the dealer.

2. The maximum single bet is one dollar.
3. Not more than three raises, of not more than one dollar each, may be made among all the players in each round of bets. Otherwise the normal rules of draw poker and stud poker apply.
4. The eligible organization shall assess the players ten dollars per player, or for games with a pot of at least ten dollars, two percent of the pot in each game. For games with a pot of less than ten dollars, an assessment is not required.

Approved April 7, 1987
Filed April 9, 1987

CHAPTER 609

SENATE BILL NO. 2067
(Legislative Council)
(Interim Law Enforcement Committee)

CHARITABLE GAMING EQUIPMENT

AN ACT to create and enact two new subsections to section 53-06.1-01 of the North Dakota Century Code, relating to definitions in the charitable gaming law; and to amend and reenact sections 53-06.1-08, 53-06.1-14, 53-06.1-16.1, and 53-06.1-17 of the North Dakota Century Code, relating to licensing of manufacturers of certain charitable gambling equipment and adoption of certain rules.

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

SECTION 1. Two new subsections to section 53-06.1-01 of the 1985 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"Charitable gaming ticket" means the game piece used in pull tab games or jar games.

"Manufacturer" means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling usable in the lawful conduct of games of chance under this chapter. "Manufacturer" 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 an organization.

* SECTION 2. AMENDMENT. Section 53-06.1-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-08. Punchboards and jars - Sale of chances - Maximum price per ticket. No person or organization engaged in the selling of chances from jars or punchboards under this chapter may 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

* NOTE: Section 53-06.1-08 was also amended by section 1 of House Bill No. 1280, chapter 614.

of the highest denomination of winners have been sold. The maximum price per ~~jar~~ charitable gaming ticket or pull tab may not exceed two dollars.

SECTION 3. AMENDMENT. Section 53-06.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-14. Distributors and manufacturers - Licensure.

1. Every manufacturer of charitable gaming tickets 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 a ~~one thousand dollar~~ 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 dollars, and the license fee for a manufacturer of charitable gaming tickets is two hundred fifty dollars.
2. Every nonresident manufacturer or distributor of raffle tickets or equipment for games of chance bingo paper or supplies doing business in this state shall appoint a North Dakota agent who shall be is licensed as a distributor. No distributor shall may sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to eligible organizations. A manufacturer of charitable gaming tickets may not sell, market, or otherwise distribute charitable gaming tickets, other than to a 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. 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.
4. No licensed or authorized eligible organization shall may be a distributor. No distributor may be a wholesaler of liquor or alcoholic beverages may be a distributor.
5. The attorney general shall have the power, on his own may, by motion based on reasonable grounds or on written complaint, to suspend or revoke a distributor's or manufacturer's license in accordance with chapter 28-32 for violation, by the licensee or any officer, director,

agent, member, or employee of the licensee, of this chapter or any rule adopted under this chapter.

SECTION 4. AMENDMENT. Section 53-06.1-16.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-16.1. Bogus chips, marked cards, cheating devices, or fraudulent schemes unlawful - Penalty. It is unlawful for any person playing or conducting any authorized game of chance conducted by a licensed organization:

1. To use bogus or counterfeit chips, pull tabs, or jar charitable gaming tickets, or to substitute or use any game, cards, or pull tabs or jar charitable gaming tickets that have been marked or tampered with.
2. To employ or have on one's person any cheating device to facilitate cheating in any game of chance.
3. To use any fraudulent scheme or technique.

A person violating this section is guilty of a class A misdemeanor unless the amount gained through the use of these items, schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony.

SECTION 5. AMENDMENT. Section 53-06.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-17. Rules. The licensing authority shall adopt rules in accordance with chapter 28-32, relating to but not limited to methods of play, conduct, and promotion of games of chance; methods, procedures, and minimum standards for accounting and recordkeeping; requiring reports by licensees and authorized organizations; methods of competition and doing business by distributors; and marking or identification of raffle tickets, charitable gaming tickets, bingo equipment, jars, pull tabs, punchboards, or any other implements of gambling used or distributed in this state to implement or effectuate the provisions and purposes of this chapter; quality standards for the manufacture of charitable gaming tickets; 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 chapter; to define capital improvements and furnishings; 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.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 610

HOUSE BILL NO. 1282
(Ulmer)

GAMES OF CHANCE PROCEEDS

AN ACT to amend and reenact subsection 6 of section 53-06.1-01 of the North Dakota Century Code, relating to allowable uses of proceeds from games of chance.

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

SECTION 1. AMENDMENT. Subsection 6 of section 53-06.1-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are:
 - a. Uses To the extent used for purposes enumerated in subdivisions c through j, uses benefiting those organizations which that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.
 - b. Uses To the extent used for purposes enumerated in subdivisions c through j, 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.
 - d. Fraternal uses specified by an organization's constitution, charter, or bylaws not of direct benefit to the eligible organization or any member thereof.
 - e. 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.

- f. The erection or maintenance of public buildings or works.
- g. Uses otherwise lessening the burden of government.
- h. 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. 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. 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.

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 active official or person who is or has been a candidate for public office.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 611

HOUSE BILL NO. 1281
(Ulmer)

LOCAL GAMING AUTHORIZATION

AN ACT to amend and reenact section 53-06.1-03 of the North Dakota Century Code, relating to local authorization of certain games of chance.

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

* SECTION 1. AMENDMENT. Section 53-06.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-03. Licensure - Exceptions for raffles, sports pools, and bingo - City and county ~~licensure~~ authorization - Fees - Suspension and revocation.

1. Except as otherwise provided in this subsection, eligible organizations desiring to conduct games of chance shall annually apply for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a fifty dollar license fee. An eligible organization may apply for local authorization to conduct raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate does not exceed two thousand dollars, or to conduct sports pools in which the total wagers do not exceed five hundred dollars for each pool. To obtain local authorization, the eligible organization shall apply directly to the governing body of the city in which it conducts its principal activities or, if its principal activities are conducted in a county but outside the limits of a city, it shall apply to the board of county commissioners ~~for a license~~. Applications for the conduct of games of chance subject to authorization by a city or county must be made on forms provided by the attorney general and ~~must be accompanied by a ten dollar permit fee payable to the city or county governing body.~~ The governing body may by ordinance or resolution establish authorization fees that, for an authorization

* NOTE: Section 53-06.1-03 was also amended by section 4 of House Bill No. 1176, chapter 532, and by section 1 of Senate Bill No. 2064, chapter 612.

for one occasion, do not exceed ten dollars, and for other authorizations, do not exceed twenty-five dollars.

2. The attorney general shall license such organizations which 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.
 - b. A class B license to any other eligible organization. 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.
 - 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 organization, and the adjusted gross proceeds collected or expected to be collected by the eligible organization.
3. Games of chance may be operated or conducted only on premises or sites set forth in the application as follows:
 - a. Class 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 must 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, which the organization may deduct from its tax liability under section 53-06.1-12 for the year in which the permit fee is paid.

- c. Rented premises are subject to rules adopted by the attorney general. At sites where the game of twenty-one is conducted, the maximum monthly rent shall not exceed one hundred fifty dollars multiplied by the number of tables on which the game of twenty-one is played for any purposes associated with the privilege of conducting all games of chance at that site.
- d. 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.
- e. 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.
4. The attorney general shall have the power, on his or her may, by motion, based on reasonable ground or upon written complaint, ~~to~~ suspend or revoke, under ~~the provisions of~~ 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 ~~or regulation~~ adopted under this chapter.

Approved March 20, 1987

Filed March 23, 1987

CHAPTER 612

SENATE BILL NO. 2064
(Legislative Council)
(Interim Law Enforcement Committee)

GAMING RENT LIMITS

AN ACT to create and enact three new sections to chapter 53-06.1 of the North Dakota Century Code, relating to maximum rent payable for conducting certain games of chance; and to amend and reenact subdivision c of subsection 3 of section 53-06.1-03 of the North Dakota Century Code, relating to maximum rent payable for conducting certain games of chance.

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

* SECTION 1. AMENDMENT. Subdivision c of subsection 3 of section 53-06.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. Rented premises are subject to rules adopted by the attorney general. At sites where the game of ~~twenty-one~~ is conducted, the maximum monthly rent shall not exceed one hundred fifty dollars multiplied by the number of tables on which the game of ~~twenty-one~~ is played for any purposes associated with the privilege of conducting all games of chance at that site.

SECTION 2. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Bingo sites - No limit on rent. For all purposes associated with the privilege of conducting games of chance, there is no limit on the monthly rent at a site where bingo is the primary game of chance conducted.

SECTION 3. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Twenty-one sites - Limit on rent. For all purposes associated with the privilege of conducting games of chance at a site other

- * NOTE: Section 53-06.1-03 was also amended by section 4 of House Bill No. 1176, chapter 532, and by section 1 of House Bill No. 1281, chapter 611.

than one where bingo is the primary game of chance being conducted, but where the game of twenty-one is conducted, the monthly rent may not exceed one hundred fifty dollars multiplied by the number of tables on which the game of twenty-one is conducted.

SECTION 4. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Pull tabs or jars sites - Limit on rent. For all purposes associated with the privilege of conducting games of chance at a site other than one where bingo is the primary game of chance being 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 dollars.
2. If the game of twenty-one is not conducted on the site, one hundred fifty dollars.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 613

HOUSE BILL NO. 1378
(Ulmer)

GAMING PRIZES AND EXPENSES

AN ACT to amend and reenact section 53-06.1-06 of the North Dakota Century Code, relating to expenses and prizes of games of chance.

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

SECTION 1. AMENDMENT. Section 53-06.1-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-06. Persons permitted to conduct games of chance - Premises - Equipment --Expenses - 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.
2. No item of expense incurred in connection with the holding, operating, or conducting of any game of chance held, operated, or conducted pursuant to this chapter may be deducted from adjusted gross proceeds, except bona fide expenses in reasonable amounts as provided under section 53-06.1-11. No games of chance may be conducted with any equipment other than 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 shall be primarily responsible for the proper determination and distribution of the entire net proceeds of any game of chance held in accordance with this chapter.
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, shall 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 shall be is its current retail price. ~~No merchandise prize shall be redeemable or convertible into cash directly or indirectly.~~
 6. Equipment, prizes, and supplies for games of chance shall 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. 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. 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.

Approved March 20, 1987

Filed March 23, 1987

CHAPTER 614

HOUSE BILL NO. 1280
(Ulmer)

JAR AND PUNCHBOARD CHANCES

AN ACT to amend and reenact section 53-06.1-08 of the North Dakota Century Code, relating to charitable gambling jars and punchboards.

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

* SECTION 1. AMENDMENT. Section 53-06.1-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-08. Punchboards and jars - Sale of chances - Maximum price per ticket. No Unless all of the highest denomination of winners have been sold, or unless otherwise permitted by the attorney general, a person or organization engaged in the selling of chances from jars or punchboards under this chapter may not discard the chances from any jar or punchboard once the contents of such that jar or punchboard are offered for sale to eligible participants, unless all of the highest denomination of winners have been sold. The maximum price per jar ticket or pull tab may not exceed two dollars.

Approved March 20, 1987
Filed March 23, 1987

* NOTE: Section 53-06.1-08 was also amended by section 2 of Senate Bill No. 2067, chapter 609.

CHAPTER 615

SENATE BILL NO. 2065
(Legislative Council)
(Interim Law Enforcement Committee)

PULL TABS WINNERS LIMIT

AN ACT to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to prize limitations on charitable gambling pull tab and jar games.

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

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

Limitation on pull tab and jar prizes. An eligible organization may not conduct a pull tab or jar game in which the highest denomination winner exceeds five hundred dollars.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 616

HOUSE BILL NO. 1283
(Ulmer)

GAMING STATEMENT OF RECEIPTS

AN ACT to amend and reenact section 53-06.1-11 of the North Dakota Century Code, relating to issuance of prizes and to expense limitations with respect to charitable gambling.

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

SECTION 1. AMENDMENT. Section 53-06.1-11 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-11. Statement of receipts - Expenses.

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of one hundred dollars or less paid immediately, ~~shall~~ must be deposited in a special account of the eligible organization which ~~shall contain~~ contains only ~~such~~ that money. Cash prizes of more than one hundred dollars, 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. In the case of a cash prize of more than one hundred dollars, the prize may also be issued by an accountable receipt or nonnegotiable instrument approved by the attorney general.
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 Subject to the limitations of this subsection, expenses incurred in connection with holding, operating, or conducting any game of chance pursuant to this chapter may be deducted from adjusted gross proceeds, except bona fide expenses of a reasonable amount actually and necessarily incurred and directly attributable only to the conduct of the games of chance. Bona fide expenses do not include overhead, capital costs, and general maintenance, except as permitted in subsection 4. For an organization that does not use any of the net proceeds for that organization's own purposes, to the extent that total expenses for games of chance may do not exceed forty-five percent of the total adjusted gross proceeds, computed on an annual basis. For other organizations, total expenses for games of chance may not exceed forty percent of the total adjusted gross proceeds, computed on an annual basis. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes.
- 4- For an organization that does not use any of the net proceeds for that organization's own purposes, expense payments for games of chance deductible from adjusted gross proceeds may be made for any purpose. For other organizations, expense payments for games of chance deductible from adjusted gross proceeds may be made only for the following purposes:
- a- The purchase of necessary goods, wares, and merchandise.
 - b- The securing of services 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- For accountant's fees.
 - e- For license fees.
 - f- Additional overhead expenses not to exceed the sum of two hundred dollars per month.

This subsection does not authorize violations of the rent limitations contained in this chapter.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 617

SENATE BILL NO. 2063
(Legislative Council)
(Interim Law Enforcement Committee)

GAMING ENFORCEMENT

AN ACT to amend and reenact section 53-06.1-12.1 of the North Dakota Century Code, relating to taxation of charitable gambling activities and the use of tax proceeds; and to provide an appropriation.

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

SECTION 1. AMENDMENT. Section 53-06.1-12.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-12.1. Allocation of games of chance tax - Appropriation. The state treasurer, at the direction of the licensing authority, shall pay quarterly to cities and counties in proportion to the tax collected under section 53-06.1-12 from eligible organizations conducting games of chance within each city, for sites within city limits, or within each county, for sites outside city limits, the following amounts which are hereby appropriated:

1. Two-fifths of the tax collected under subsection 1 of section 53-06.1-12 within the city or county.
2. One-tenth of the tax collected under subsection 2 of section 53-06.1-12 within the city or county.

The remaining tax collected under section 53-06.1-12, up to the amount paid during the 1985-87 biennium, shall be paid by the licensing authority to the state treasurer for deposit in the state general fund. Any amounts received by a city or county under this section must be used by the city or county for expenses connected with enforcement of this chapter within the city or county. Any amount remaining because of the limitation with respect to the 1985-87 biennium, up to two hundred thousand dollars, must be deposited in the attorney general's operating budget and must be used only for the enforcement of gaming as appropriated. Any amount remaining in excess of two hundred thousand dollars must be deposited by the state treasurer in the general fund.

SECTION 2. APPROPRIATION. There is hereby appropriated out of the moneys derived pursuant to section 1 of this Act, the sum of \$200,000 to the attorney general's operating budget for the enforcement of gaming for the biennium beginning July 1, 1987, and ending June 30, 1989.

Approved April 21, 1987
Filed April 30, 1987

CHAPTER 618

SENATE BILL NO. 2319
(Senators D. Meyer, David, Langley)
(Representatives Dalrymple, Kretschmar, Ulmer)

PARIMUTUEL HORSE RACING

AN ACT to provide for parimutuel horse racing conducted by certain civic and service clubs, charitable, fraternal, religious, and veterans' organizations, and other public-spirited organizations, the creation of a racing commission, license authorization, and fees; to provide a penalty; and to provide an appropriation.

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

SECTION 1. Definitions. As used in this Act:

1. "Certificate system" means the system of betting described in section 10 of this Act.
2. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state, and has been so engaged in this state for at least two years.
3. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state, and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
4. "Commission" means the North Dakota racing commission.
5. "Director" means the director of the commission.

6. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.
7. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
8. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this Act.
9. "Racing" means horse racing under the certificate system.
10. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
11. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

SECTION 2. Racing commission - Members - Appointment - Term - Qualifications - Compensation.

1. A North Dakota racing commission is established in the office of the secretary of state. The commission consists of the secretary of state 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.
2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such

character and reputation as to promote public confidence in the administration of racing in this state. A person who has a financial interest in racing cannot be a member of the commission and cannot be employed by the commission. Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission.

3. Commission members are entitled to forty dollars per day for compensation, and mileage and expense reimbursement as allowed to other state employees.
4. The secretary of state is the chairman of the commission.

SECTION 3. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel - Administrative functions.

1. The commission shall appoint a director of racing. The commission shall establish the director's qualifications and salary.
2. The director shall devote full time to the duties of the office. The director is the executive officer of the commission and shall enforce the rules and orders of the commission. The director shall perform other duties the commission prescribes.
3. The director may employ other persons as authorized by the commission.
4. Administrative functions of the commission, except personnel matters, are under the secretary of state's general supervision.

SECTION 4. Duties of commission. The commission shall:

1. Provide for racing under the certificate system.
2. Set racing dates.
3. Adopt rules for effectively preventing the use of any substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse, unless specifically authorized by the commission.
4. Supervise and check the making of parimutuel pools, parimutuel machines, and equipment at all races held under the certificate system.
5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.

6. Consider all proposed extensions, additions, or improvements to the buildings, stables, or tracks on property owned or leased by a licensee.
7. Exclude from racecourses any person who violates any rule of the commission or any law.
8. Determine the cost of inspections performed under subsection 3 of section 5 of this Act and require the licensee to pay that cost.

SECTION 5. 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 cause the various places where race meets are held under the certificate system to be visited and inspected at reasonable intervals for the purpose of determining compliance with the rules.
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 industry and require and obtain information the commission deems necessary from license applicants.
5. Adopt additional rules under which all horse races are conducted.

SECTION 6. Organizations eligible to conduct racing. Civic and service clubs, charitable, fraternal, religious, and veterans' organizations, and other public-spirited organizations may be licensed to conduct racing as authorized by this Act.

SECTION 7. Issuance of licenses - Applications.

1. On compliance by an applicant with this Act, the commission may issue a license to conduct races.
2. An application for a license to conduct a racing meet must be signed under oath and filed with the commission. The application must contain at least the following:
 - a. The name and post-office address of the applicant.
 - b. The location of the race track and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.

- c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
 - d. The time, place, and number of days the racing meet is proposed to be conducted.
 - e. The type of racing to be conducted.
 - f. Other information the commission requires.
3. At least thirty days before the commission issues or renews a license to conduct races, the applicant must deliver a complete copy of the application to the local jurisdiction governing body. The application to the commission must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the director within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

SECTION 8. License authorization and fees.

1. Each license issued under the certificate system must describe the place and track or racecourse at which the licensee may hold races. The authority conferred in a license is limited to the calendar year for which it is issued. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. However, races authorized under this Act may be held only between nine a.m. and twelve midnight.
2. The commission may charge a license fee for racing commensurate with the size and attendance of the race meet. The commission shall remit license fees to the state treasurer. The state treasurer shall place the fees in the operating fund of the tourism division of the economic development commission to pay for the operation and salaries of the commission and its employees.
3. Each applicant for a license under this Act shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.
4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen,

exercise workers, veterinarians, valets, and concessionaires. A license issued under this subsection cannot be valid for more than one calendar year, but the license is valid at all race meetings in which the licensee participates during that year. License fees are as established by the commission.

SECTION 9. Allotment of racing days. If an applicant is eligible to receive a license under this Act, the commission shall fix the racing days that are allotted to that applicant and issue a license for the holding of racing meets. An eligible applicant that has adopted and used regular or approximately regular dates for its events for the past two years is entitled to be allotted those days on request.

SECTION 10. Certificate system - Rules. The certificate system allows a licensee to receive money from any person present at a race who desires to bet on any horse entered in that race. A person betting on a horse to win acquires an interest in the total money bet on all horses in the race, in proportion to the amount of money bet by that person, under rules adopted by the commission. The licensee shall receive such bets and for each bet shall issue a certificate to the bettor on which is at least shown the number of the race, the amount bet, and the number or name of the horse selected by the bettor. The commission may also adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

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

1. For each race held at a racing meet where the average daily amount bet on the total races held exceeds fifty thousand dollars, the licensee shall deduct eighteen and one-fourth percent of the total parimutuel pool bet on the race. Of this amount, the licensee may retain fourteen and one-fourth percent for expenses. The licensee shall pay the remaining four percent to the state treasurer as prescribed by the commission. Of the four percent paid to the state treasurer, up to the first one hundred thousand dollars is to be placed in the operating fund of the tourism division of the economic development commission from which all salaries and expenses of the commission and its employees are to be paid. The remaining funds must be placed in the general fund of the state.
2. For each race held at a meet where the average daily amount bet on the total races held does not exceed fifty thousand dollars, the licensee shall deduct eighteen and one-fourth percent of the total parimutuel pool bet on the individual race. Of this amount, the licensee may retain fifteen and one-fourth percent for expenses. The licensee shall pay the remaining three percent to the state treasurer as prescribed by the commission. Of the three

percent paid to the state treasurer, up to the first one hundred thousand dollars is to be placed in the operating fund of the tourism division of the economic development commission from which all salaries and expenses of the commission and its employees are to be paid, except that the amounts in subsections 1 and 2 of this section may not exceed a total of one hundred thousand dollars. The remaining funds must be placed in the general fund of the state.

3. The licensee 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.
4. 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 6 of section 53-06.1-01.

SECTION 12. Audits and investigations by state auditor. On request of the commission, the state auditor shall conduct audits and investigate the operations of any licensee. The commission shall reimburse the state auditor for all services rendered.

SECTION 13. Duty of attorney general to participate in certain hearings - Employment of private counsel by commission. The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising from violations of this Act. The commission shall reimburse the attorney general for the cost of all services rendered. The commission may employ private counsel for adoption of rules and to ensure that its hearings are conducted fairly.

SECTION 14. Denial, suspension, and revocation of licenses - Reasons. The commission may deny, suspend, or revoke licenses under the certificate system and privileges granted by it, and it may terminate racing privileges for just cause. Actions constituting just cause include:

1. Any action or attempted action by a person contrary to any law.
2. Corrupt practices, which include:
 - a. Prearranging or attempting to prearrange the order of finish of a race.
 - b. Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.

- c. Falsifying or manipulating the odds on any entrant in a race.
3. Any violation of the rules of racing adopted by the commission.
 4. Willful falsification or misstatement of fact in an application for racing privileges.
 5. Material false statement to a racing official or to the commission.
 6. Willful disobedience of a commission order or of a lawful order of a racing official other than a commission member.
 7. Continued failure or inability to meet financial obligations connected with racing meets.
 8. Failure or inability to properly maintain a racetrack.

SECTION 15. Revocation, suspension, fine - Procedure. The commission, on proof of violation by a licensee, its agents or employees, of this Act or any rule adopted by the commission may, on reasonable notice to the licensee and after giving the licensee an opportunity to be heard, fine the licensee or revoke or suspend the license. If the license is revoked, the licensee is not eligible to receive another license within twelve months from the date of revocation. Every decision or order of the commission must be made in writing and filed with the director for preservation as a permanent record of the commission. The decision must be signed by the chairman, attested by the director, and dated.

SECTION 16. Performing certain acts without license prohibited - Penalty. A person may not conduct a race unless that person is licensed to do so by the commission. Violation of this section is a class A misdemeanor.

SECTION 17. APPROPRIATION. The commission may accept \$100,000 in grants and donations from, and seek further funding from, the economic development commission and any other source. The amounts so received are appropriated to the commission for defraying the initial costs of administering this Act for the biennium beginning July 1, 1987, and ending June 30, 1989.

Approved April 14, 1987
Filed April 15, 1987