

SPORTS AND AMUSEMENTS

CHAPTER 483

HOUSE BILL NO. 1410

(Representative Poolman)

ATHLETIC ADVISORY BOARD FEES

AN ACT to create and enact a new subsection to section 53-01-07 of the North Dakota Century Code, relating to the establishment of a fee to pay for expenses of members of the athletic advisory board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 53-01-07 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

Establish by rule a fee based on the percentage of gross revenues from any boxing, kickboxing, or sparring exhibition held in this state to pay for the expenses of members of the athletic advisory board. A fee established under this subsection may not exceed one percent of the gross revenues of the exhibition from any and all sources including cable television and pay-per-view telecasts of the event, exclusive of any federal tax thereon.

Approved March 6, 1995

Filed March 7, 1995

CHAPTER 484

HOUSE BILL NO. 1168

(Judiciary Committee)

(At the request of the State Gaming Commission)

GAMES OF CHANCE LAW REVISIONS

AN ACT to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to interest and penalty for licensed gaming organizations; to amend and reenact section 53-06.1-01, subsection 2 of section 53-06.1-01.1, sections 53-06.1-02, 53-06.1-03, 53-06.1-03.1, 53-06.1-03.2, 53-06.1-03.3, 53-06.1-05.1, 53-06.1-06, 53-06.1-06.1, 53-06.1-07, 53-06.1-07.1, 53-06.1-07.2, 53-06.1-07.3, 53-06.1-08, 53-06.1-09, 53-06.1-10, 53-06.1-10.1, 53-06.1-11, 53-06.1-11.1, 53-06.1-12, 53-06.1-12.1, 53-06.1-12.2, 53-06.1-13, 53-06.1-14, 53-06.1-15, 53-06.1-15.1, 53-06.1-15.2, 53-06.1-15.4, 53-06.1-16, 53-06.1-16.1, 53-06.1-16.2, and 53-06.1-17 of the North Dakota Century Code, relating to definitions under the games of chance laws, qualifications of gaming commission members, use of net proceeds, allowable games and prize limitations, conditional site authorization, two organizations conducting games on a site, license fees, rent limits, regulation of the number of twenty-one tables and sites, persons restricted from being involved in gaming equipment, history background checks, local work permits, allowed games of chance, limitations on hours and participation in games, poker, calcuttas, punchboards, pull tabs, sports pools, twenty-one, raffles, gross proceeds and expenses, organizations using money in certain political activities, gaming taxes, deposits, examination of books and records, distributors and manufacturers, form and display of a license and local permit, reimbursing the attorney general for inspection costs, the statute of limitations, conditional licenses, violation of a law or rule, thefts and fraudulent schemes, ineligibility for local permits and rules; to repeal sections 53-06.1-02.1, 53-06.1-04, 53-06.1-05, and 53-06.1-08.1 of the North Dakota Century Code, relating to waiver of the two-year activity requirement for local permits, local permits, and pull tab prizes; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. "Adjusted gross proceeds" means, except for ~~games of draw poker and stud poker authorized under section 53-06.1-07.2~~, gross proceeds less cash prizes ~~and the price, cost~~ of merchandise prizes, ~~less the pull tab excise tax imposed by section 53-06.1-12.2~~, and ~~less the amount of~~ federal excise tax and interest imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401]. In the ~~games of draw poker and stud poker~~, "adjusted gross proceeds" means the time buy-ins ~~or and tournament fees collected by the licensed organization~~.
2. "Charitable organization" means an organization incorporated as a nonprofit corporation whose primary purpose is for relief of poor, distressed, underprivileged, diseased, elderly, or abused persons,

prevention of cruelty to children or animals, or other condition of public concern ~~within this state~~, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.

3. ~~“Civic and service organization” means any branch, lodge, or chapter of a nonprofit national or state organization which an organization incorporated as a nonprofit corporation whose primary purpose is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or and service purpose within this state; activity as a sertoma, lion, rotary, jaycee, kiwanis organization, or similar organization, and which has been actively fulfilling its primary purpose within this state for the two immediately preceding years. The term also means 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 the organization conducts its principal activities outside the limits of a city. Such organization must have been actively fulfilling its primary purpose within this state for the two immediately preceding years.~~
4. “Commission” means the state gaming commission.
5. ~~“Distributor” means a person that sells, markets, or otherwise distributes gaming equipment usable in the lawful conduct of games of chance under this chapter. The term does not include a resident printer who prints raffle tickets at the request of a licensed organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to the organization.~~
6. “Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses” are:
 - a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.
 - b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.
 - c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:
 - (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
 - (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
 - (3) Assistance to libraries and museums.
 - (4) Assistance for the performing arts and humanities.

- (5) Preservation of cultural heritage.
 - (6) Youth community and athletic activities.
 - (7) Adult amateur athletic activities within the state, such as softball, including uniforms and equipment.
 - (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
 - (9) Scientific research.
- d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:
- (1) Relief to an individual or family suffering from poverty or homelessness.
 - (2) Encouragement and enhancement of the active participation of the elderly in our society.
 - (3) Services to the abused.
 - (4) Services to persons with an addicted behavior toward alcohol, gambling, or drugs.
 - (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.
 - (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
 - (7) Funds for emergency relief and volunteer services.
 - (8) Funds to nonprofit nursing homes and other nonprofit medical facilities.
 - (9) Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
 - (10) Funds for crime prevention, fire protection and prevention, and public safety.
 - (11) Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, health and economic interests of injured or disabled veterans.
- e. Uses that are fraternal related which include disbursements for:
- (1) Fraternal uses, consistent with uses enumerated in subdivisions a through m, specified by an organization's

constitution, charter, articles of incorporation, or bylaws and not of direct benefit to the eligible organization.

- (2) Fraternal uses or disbursements to perpetuate the memory and history of the dead.
- f. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof which include disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants are excluded from receiving net proceeds ~~under this subdivision or any other provision of this chapter.~~
- g. The erection or maintenance of public buildings or works, public utilities, or public waterworks.
- h. Uses otherwise lessening the burden of government which include disbursements to any entity that is normally funded by the city, county, state, or United States government and disbursements directly to a city, county, state, or the United States government, or any agency, political subdivision, or instrumentality thereof.
- i. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the losses uncompensated by insurance.
- j. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is uncompensated by insurance.
- k. Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies as a community service project if it promotes the common good, enhances the social welfare of the community, and benefits an indefinite number of persons. The specific goals of a community service project may be to develop or promote public services in areas such as education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, and health. Uses that directly benefit a chamber of commerce do not qualify.
- l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of the community which include disbursements to provide:
 - (1) Funds for adult bands, including drum and bugle corps.
 - (2) Funds for trade shows and conventions conducted in this state.
 - (3) Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife propagation and habitat enhancement program.

- (4) Funds for public transportation and recreation.
- (5) Funds for preservation and cleanup of the environment.

m. To the extent ~~the~~ net proceeds are used toward the primary purpose of a charitable, educational, religious, public safety, or public-spirited organization, that has obtained a final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code, the organization may establish a special trust fund as a contingency for funding or maintaining the organization's future program services should the organization discontinue conducting games of ~~chance~~ or dissolve. ~~The commission may adopt rules for the establishment of special trust funds:~~

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

7. "Educational organization" means any nonprofit public or private elementary or secondary school, two-year or four-year college, or university in this state which has been active for the two immediately preceding years.
8. "Eligible organization" means ~~bona fide nonprofit~~ veterans, charitable, educational, religious, fraternal, civic and service, public safety, and public-spirited organizations ~~as defined by this section~~, which may be licensed by the attorney general or issued a local permit by the governing body of a city or county to conduct games of ~~chance under this chapter~~.
9. "Fraternal organization" means an organization ~~within this state~~, except a college ~~and or~~ high school ~~fraternities~~ fraternity, which is incorporated as a nonprofit corporation and which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have been actively fulfilling its primary purpose within this state for the two immediately preceding years, and must have obtained an advance ruling or final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code. However, if the organization's gross receipts in each tax year are normally not more than twenty-five thousand dollars, the organization is not required to have obtained an advance ruling or final determination from the internal revenue service.
10. "Games" means games of chance.

- ~~11.~~ 11. "Gross proceeds" means all moneys collected or received from conducting games of chance and from ~~games of chance~~ admissions.
- ~~12.~~ 12. "Licensed organization" means an eligible organization licensed by the attorney general to conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, poker, paddlewheels, and sports pools.
- ~~13.~~ 13. "Local permit" means a permit issued to a nonprofit organization recognized as a public-spirited organization by a governing body of a city or county that authorizes the organization to conduct only bingo, raffles, and sports pools in that city or county.
- ~~14.~~ 14. "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 equipment~~ usable in the lawful conduct of games of chance under this chapter. ~~The term does not include a resident printer who prints raffle tickets at the request of a licensed organization or an organization that has been issued a local permit, and who sells or otherwise distributes such raffle tickets to the organization.~~ For a pull tab and bingo card dispensing device, a manufacturer is the person who owns the rights to the proprietary operating software.
- ~~15.~~ 15. "Manufacturer's distributor" means a wholesaler of a manufacturer of ~~electronic mechanical~~ pull tab dispensing devices and associated equipment who maintains a parts inventory, who sells at wholesale dispensing devices and associated equipment directly to a licensed distributor, and who does not sell or otherwise provide these items to a ~~licensed~~ an eligible organization.
- ~~16.~~ 16. "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 a member of an auxiliary members organization, but excludes a social and honorary members member.
- ~~17.~~ 17. "Net proceeds" means ~~the adjusted gross proceeds less such allowable expenses and taxes as are specifically authorized under this chapter~~ the gaming tax.
- ~~18.~~ 18. "Person" means any person, firm, partnership, corporation, limited liability company, association, or organization.
- ~~19.~~ 19. "Public safety organization" means an organization incorporated as a nonprofit corporation whose primary purpose is to actively engage in firefighting, ambulance service, or similar disaster assistance, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years.
- ~~20.~~ 20. "Public-spirited organization" means an organization incorporated as a nonprofit corporation whose primary purpose is for scientific research, amateur sports competition, safety, arts, agriculture, preservation of cultural heritage, educational activities, educational public service, youth, economic development, tourism, or similar organization, and which does

not meet the definition of veterans, fraternal, charitable, educational, religious, civic and service, or public safety organization, which has been actively fulfilling its primary purpose within this state for the two immediately preceding years ~~and is recognized by the governing body of a city or county by resolution as public spirited.~~ However, a nonprofit organization recognized as a public-spirited organization by a governing body of a city or county for obtaining a local permit does not need to meet this definition.

20. "Pull tab" means the game piece used in deals of pull tabs.
21. "Religious organization" means ~~any~~ a nonprofit organization, church, body of communicants, or group gathered in common membership incorporated as a nonprofit corporation whose primary purpose is for advancement of religion, mutual support and edification in piety, worship, and religious observances which has been actively ~~so~~ gathered or united in this state for the two immediately preceding years.
22. "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. The organization must have been actively fulfilling its primary purpose in this state for the two immediately preceding years and must have obtained an advance ruling or final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(19) of the Internal Revenue Code. However, if the organization's gross receipts in each tax year are normally not more than twenty-five thousand dollars, the organization is not required to have obtained an advance ruling or final determination from the internal revenue service.

SECTION 2. AMENDMENT. Subsection 2 of section 53-06.1-01.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of gaming in this state. A person is also ineligible if that person has been convicted of a felony criminal offense or has pled guilty or been ~~convicted~~ found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09, 12.1-10, 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or has pled guilty or been ~~convicted~~ found guilty of any violation of section 6-08-16 or 6-08-16.2, or has pled guilty or been ~~convicted~~ found guilty of any offense or violation that has a direct bearing on the person's fitness to be involved in gaming, or who has committed an equivalent offense or violation of the laws of another state or of the United States. A person who has a financial interest in gaming cannot be a member of the commission and cannot be employed by the commission. For the purpose of this subsection, a financial interest includes the receiving of any direct payment from an eligible organization for property, services, or facilities provided to that organization. Failure to maintain compliance with this subsection is

grounds for removal from the commission or from employment with the commission.

SECTION 3. AMENDMENT. Section 53-06.1-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-02. Organizations eligible under chapter - Use of net proceeds. Nonprofit veterans, charitable, educational, religious, fraternal, civic and service, public safety, and public-spirited organizations; ~~as defined by this chapter;~~ are eligible to conduct games of ~~chance~~ under this chapter. ~~The net proceeds of such games of chance~~ A licensed organization must be devoted devote net proceeds to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this chapter. Notwithstanding any other provision of this chapter, an An organization that has ~~been issued~~ a local permit may use the net proceeds to directly benefit the organization.

²³² **SECTION 4. AMENDMENT.** Section 53-06.1-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-03. Exceptions for raffles, sports pools, and bingo - City and county local permits and site authorizations - Licensure by attorney general - Fees - Suspension and revocation.

1. A nonprofit organization shall obtain a local permit as follows:
 - a. A nonprofit organization recognized as a public-spirited organization by the governing body of a city or county may ~~obtain apply for~~ a local permit to conduct only raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate prizes do not exceed six thousand dollars annually, and to conduct sports pools; for professional sports only; ~~in which the total wagers do not exceed five hundred dollars for each pool. A governing body may issue a local permit for these games to be held at designated times and places. If the nonprofit organization is a North Dakota college or university fraternity or sorority, the organization shall include a signed acknowledgement by the administration of the college or university that the applicant is a recognized fraternity or sorority.~~
 - b. ~~A nonprofit organization that conducts a city or county festival or celebration may be recognized as a public-spirited organization by the governing body of a city or county and may obtain a local permit to conduct raffles in which the primary prize does not exceed one thousand dollars and the aggregate prizes do not exceed two thousand dollars. For purposes of this subdivision, a "city or county festival or celebration" means an event:~~
 - (+) ~~In celebration of local heritage, anniversary of establishment of the political subdivision, or other significant local event~~

²³² Section 53-06.1-03 was also amended by section 1 of House Bill No. 1355, chapter 485.

recognized as public spirited by the governing body of the city or county; and

(2) Supported by significant community participation:

- c. ~~To obtain a local permit, the nonprofit~~ An eligible organization shall apply directly to the governing body of the city or county in which the site where the gaming activity to be conducted is located where the raffle, sports pool, or bingo activity will be conducted or, if the raffle, sports pool, or bingo activity is conducted at a site located in a county but outside the limits of a city, the organization shall apply to the board of county commissioners. Application for a local permit must be made on forms provided a form prescribed by the attorney general. Approval may be granted at the discretion of the governing body. The A governing body may by ordinance or resolution establish a local permit fee not to exceed twenty-five dollars for each local permit. A local permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
- d; c. For purposes of issuing a local permit, the determination of what is a "public-spirited organization" is within the sole discretion of the governing body of the city or county.
2. ~~Except as otherwise provided in this section, an~~ An eligible organization desiring to be licensed shall apply for a license to conduct lawful games of chance shall apply annually for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a one hundred fifty dollar license fee; except the fee is one hundred dollars for an organization whose average annual gross proceeds do not exceed twenty-five thousand dollars. An organization shall provide clear and convincing evidence that the organization qualifies as an eligible organization. If a licensed organization amends its primary purpose as stated in its articles of incorporation or changes its basic character in a material manner, the organization shall reapply for licensure with the attorney general. by:
- a. First securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. Approval, which may be granted at the discretion of the governing body, must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. A governing body of a city or county may not require an eligible organization to donate net proceeds directly to the city, county, or related political subdivision as a condition for receiving a site authorization from the city or county. A governing body may charge a one hundred dollar fee for a site authorization; and
- b. Annually applying for a license from the attorney general before July first on a form prescribed by the attorney general and including with the application a one hundred fifty dollar license fee. An organization shall sufficiently document that it qualifies as an eligible organization. If a licensed organization amends its primary purpose as stated in its articles of incorporation or changes its basic character in a material manner, the organization shall reapply for licensure.

3. The attorney general shall license an eligible organizations that conform to the requirements of this chapter by issuing licenses organization as follows:
 - a. A class A license to an eligible organization that is a fraternal, veterans, or civic and service organization.
 - b. A class B license to an eligible organization that is a charitable, religious, educational, public-spirited, or public safety 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. An eligible organization that qualifies for a class A license may not also be issued a class B license.~~
 - e. ~~The commission may 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 licensed organization, and the adjusted gross proceeds collected or expected to be collected by the licensed organization.~~
4. A licensed organization may conduct games of chance only on an authorized site set forth in the application as follows:
 - a. ~~A licensed organization shall first secure approval of the proposed site at which it intends to conduct lawful games of chance from the governing body of the city, if within city limits, or the county, if outside city limits, where the site is located. This approval, which may be granted at the discretion of the governing body, must be recorded on a site authorization form which is to accompany the license application to the attorney general for final approval. The governing body may charge a one hundred dollar fee for the site authorization.~~
 - b. ~~Rented premises are subject to rules adopted by the commission.~~
 - e. Only one licensed organization or organization that has been issued a local permit at a time may conduct games of chance at a specific an authorized site, except that a raffle drawing may be conducted for a special occasions occasion by a second organization that is a licensed organization or organization that has a local permit when one of the following these conditions are is met:
 - (1) When the area for the raffle drawing is physically separated from the area where gaming is games are conducted by the regular licensee.
 - (2) Upon request of the regular licensee and with the approval of the alcoholic beverage establishment, the licensee's license is suspended for that specific time of day by the attorney general or commission.
 - d. ~~Licenses, rules of conduct and play, state gaming stamps, and state registration stamps must be displayed on forms and in the manner specified in rules adopted by the commission.~~

- e. b. ~~No licensed organization or closely connected licensed organizations as a unit may have more than thirty authorized sites unless granted a waiver by the attorney general. However, after June 30, 1995, no a licensed organization or closely connected licensed organizations as a unit may not have more than twenty-five authorized sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization willing to conduct gaming at a site for which a waiver is being sought, the attorney general may approve the waiver. The attorney general may not grant a licensed organization a waiver for more than five sites. Closely connected licensed organizations are two or more organizations which have unitary characteristics attributes that may include common primary purposes, members on boards of directors, officers, management, employees, bookkeepers, program services, integrations of gaming activities, and shared facilities.~~
5. The attorney general may, based on reasonable ground or upon written complaint, suspend, deny, or revoke under chapter 28-32, any license granted under this chapter for violations by the licensee, or any officer, director, agent, member, or employee of the licensee, of this chapter or any gaming rule adopted under this chapter. Notwithstanding section 5-02-02, an eligible organization that possesses a license issued under chapter 5-02 may not have that license suspended, revoked, or denied in consequence of action taken under this subsection unless that organization conducts gaming ~~determined to be in violation of that violates~~ chapter 12.1-28 or subsection 1 of section 53-06.1-07.
 6. The attorney general may impose monetary fines on licensed organizations, distributors, manufacturers' distributors, and manufacturers for failure to comply with this chapter or any gaming rule adopted under this chapter. The monetary fine for each violation by an organization is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater. The monetary fine for each violation by a distributor or manufacturer's distributor is a minimum of one hundred dollars and may not exceed five thousand dollars. The monetary fine for each violation by a manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars. This fine may be in addition to or in lieu of a license suspension or revocation.

SECTION 5. AMENDMENT. Section 53-06.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-03.1. Bingo sites - Rent must be reasonable Limit on rent. For all ~~purposes associated with~~ the privilege of conducting games of chance at a site where bingo is the primary game of chance conducted; ~~the monthly rent must be reasonable.;~~

1. Except under subsection 3, if bingo is the primary game, the monthly rent must be reasonable.
2. If bingo is not the primary game, but is conducted in conjunction with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.

3. If bingo is conducted involving only a bingo card dispensing device and no other game is conducted, the monthly rent may not exceed two hundred twenty-five dollars.

SECTION 6. AMENDMENT. Section 53-06.1-03.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 7. AMENDMENT. Section 53-06.1-03.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 8. AMENDMENT. Section 53-06.1-05.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-05.1. Regulation by city or county of number of twenty-one tables per site and number of sites per licensed organization. ~~Cities, for sites within The governing body of a city limits, or counties, for sites outside city limits, county may establish by ordinance or resolution a maximum limit the~~ number of tables for twenty-one per site and ~~a maximum the~~ number of sites upon which a licensed organization may conduct games of chance within the city or county.

²³³ **SECTION 9. AMENDMENT.** Section 53-06.1-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-06. Persons permitted to conduct games of chance - Gaming site Site - Equipment - Compensation.

1. No person, except a member or employee of a licensed organization or an organization that has ~~been issued a local permit or a member of an organization auxiliary to a licensed organization or an organization that has been issued a local permit,~~ may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of conducting pull tabs or bingo through ~~an electronic mechanical a~~ dispensing device, the attorney general may allow ~~employees an~~

²³³ Section 53-06.1-06 was also amended by section 2 of House Bill No. 1355, chapter 485.

~~employee of licensed an alcoholic beverage establishments establishment~~ to provide limited assistance to a class B licensed organization whose adjusted gross proceeds does not exceed eighty thousand dollars per quarterly reporting period of operation or to any class A licensed organization. However, a volunteer of an eligible organization may sell raffle tickets.

2. Except when authorized by the attorney general, no ~~games of chance game~~ may be conducted with ~~any~~ gaming equipment other than ~~gaming~~ equipment owned by ~~an eligible organization~~, loaned to, or rented at a reasonable rate by an eligible organization from an eligible organization or a licensed distributor.
3. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of ~~the net proceeds of games of chance~~.
4. The ~~gaming~~ site where any game of chance is being held, operated, or conducted, or where it is intended that the game will be held, must be open to inspection by the attorney general and by local law enforcement officials of this state.
5. ~~When any~~ The value of a merchandise prize is awarded in a game of chance; its value is its current retail price.
6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at excessive prices in excess of the usual price thereof.
7. A class A organization ~~must shall~~ devote the entire net proceeds ~~derived from conducting games of chance~~ within three months from the end of the quarter in which ~~such the net~~ proceeds were earned to eligible uses. A class A organization desiring to hold the net proceeds for a period longer than three months shall apply to the attorney general for special permission, and upon good for reasonable cause shown, the attorney general may grant the request.
8. ~~No person who has pled guilty to or been found guilty of a felony may sell or distribute equipment, or conduct or assist in games of chance under this chapter for five years from the date of the conviction or release from incarceration, parole, or probation, whichever is the latter. No person determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter for a period determined by the attorney general.~~
9. Any person involved with the conduct of games of chance must be: A person is restricted from being involved in gaming and the attorney general shall conduct criminal history background checks as follows:
 - a. A person of good character, honesty, and integrity. A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, chapters 12.1-28 or 53-06.2, or offenses of other states or the federal government equivalent to offenses defined in these chapters may not be a licensed distributor, may not be employed by a licensed

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

- b. A person 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. A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of section 6-08-16.1 or chapters 12.1-06, 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a municipality equivalent to these offenses may not be a licensed distributor, may not be employed by a licensed distributor to sell or distribute gaming equipment, and may not be employed by a licensed organization to conduct games on a site for two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.
- c. The attorney general shall conduct a criminal history background check of each potential employee and charge a fee of twenty dollars per record check in accord with section 12-60-16.9. In addition, the attorney general may require payment of any additional fee necessary to defray the actual cost of a background check of a person for whom adequate background information sources are not readily available, including a person who has not resided in North Dakota for the previous one year. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the background check. The attorney general shall notify the person when a determination is made that an additional fee is necessary and shall notify the person of the best estimate of the amount of the additional fee. In lieu of paying the additional cost, a person may cancel the background check. The estimated cost must be placed in the attorney general's refund fund for use to defray the actual expenses of the background check. The remainder of the funds must be returned to the person within thirty days of the conclusion of the background check. The attorney general shall notify the organization and or the person of the result of the background check. The attorney general shall hold the information confidential except in the proper administration of this chapter or any gaming rule, or to an authorized law enforcement agency.

- ~~10.~~ 9. The attorney general ~~or commission~~ may prohibit a person from playing games of ~~chance~~ if the person violates this chapter, chapters 12.1-28 or 53-06.2, or ~~any a gaming rule adopted under this chapter.~~
- ~~11.~~ 10. The attorney general ~~or commission~~ may require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination; ~~after opportunity for the parties to be heard, or a hearing by the attorney general or commission.~~
- ~~12.~~ 11. If bingo is the primary game of ~~chance~~ conducted at an authorized a site, ~~no~~ a licensed organization may not pay bingo prizes in which the

aggregate of the bingo prizes for a quarter exceeds the total bingo gross proceeds for the quarter at that site. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the computation of the aggregate of the bingo prizes.

SECTION 10. AMENDMENT. Section 53-06.1-06.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-06.1. Work Local work permits.

- 1- ~~Cities; for sites within city limits; and counties; for sites outside city limits; may require a person associated with the conduct of conducting games of chance to obtain a local work permit, charge a fee for issuance of a work permit, and conduct reasonable inquiries into the background of the individual. Any A fee charged for issuance of a work permit may not exceed the actual expense to the city or county of licensing processing the applicant application. The attorney general may adopt guidelines relating to issuance of work permits by counties and cities.~~
- 2- ~~The attorney general may establish a centralized statewide work permit system to determine the identity, prior activities, and present employment of all gaming employees in this state. The information must be held confidential except in the proper administration of this chapter or any rule adopted under this chapter, or to an authorized law enforcement agency. No gaming organization may employ any person or a gaming employee nor may any person be employed as a gaming employee unless that person possesses a current and valid work permit. The attorney general may issue, renew, deny, suspend, and revoke work permits. Subject to the attorney general's discretion, a temporary work permit may be issued. If an application is denied or a work permit is suspended or revoked, the notice by the attorney general must include a statement of the facts upon which the attorney general relied in making the decision. Any person whose application for a work permit has been denied may, not later than twenty days following receipt of the notice, apply to the attorney general for a hearing. The attorney general may prescribe the frequency of the work permit renewals. The attorney general may issue an emergency order, effective upon service to the permitholder, suspending a person's work permit upon a determination that the suspension is necessary to preserve effective regulation and control of gaming, to preserve the public interest or morals, or the person obtained a work permit by misrepresentation. The attorney general may charge each gaming employee an annual work permit fee of twenty-five dollars and a fee of five dollars for each change of employment. In addition to the basic permit fees, the attorney general may require payment of any additional fees necessary to defray the actual costs of a background investigation of applicants for whom adequate background information sources are not readily available, including applicants who have not resided in the state for at least one year. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the applicant as soon as possible after a determination is made that the additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. In lieu of paying the additional cost, any applicant may withdraw the application. The~~

~~estimated cost must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of such funds must be returned to the applicant within thirty days of the conclusion of the investigation.~~

SECTION 11. AMENDMENT. Section 53-06.1-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07. Games of chance allowed.

1. Only an eligible organizations organization licensed by the attorney general may conduct bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools. These games may only be conducted and played at gaming sites a site authorized by a local governing body and approved by the attorney general.
2. The game of pull tabs may be conducted only through use of commingled games.

SECTION 12. AMENDMENT. Section 53-06.1-07.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.1. Limitations on hours and participation in games of chance. A person under twenty-one years of age may not directly or indirectly play ~~games of~~ pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. A person under eighteen years of age may not directly or indirectly play ~~the game of~~ bingo unless the person is accompanied by an adult, ~~the bingo game~~ is conducted by an organization that has ~~been issued~~ a local permit, or the game's prize structure does not exceed that allowed ~~under subsection 1 of section 53-06.1-03~~ for a ~~local permits~~ permit. ~~The games~~ Games of pull tabs, punchboards, twenty-one, paddlewheels, and sports pools may be conducted only during the hours when alcoholic beverages may be dispensed in accordance with applicable regulations of the state ~~or the~~, county, or city.

SECTION 13. AMENDMENT. Section 53-06.1-07.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-07.2. Draw poker and stud poker - Limited authorization Poker. A licensed organization may conduct ~~the game of draw~~ poker on not more than two occasions per year as follows:

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

SECTION 14. AMENDMENT. Section 53-06.1-07.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 15. AMENDMENT. Section 53-06.1-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-08. Punchboards and pull tabs - Sale of chances - Maximum price per pull tab. Unless all of the top tier winning pull tabs or punchboard punches have been redeemed, or unless otherwise permitted by the attorney general, ~~no~~ a person or organization conducting ~~games~~ of pull tabs or punchboards may not close the game once after the contents of that game have been offered for sale to players placed in play. The maximum sales price per pull tab and punchboard punch ~~may not exceed~~ is two dollars. The maximum prize value of the top tier winning pull tab is five hundred dollars.

SECTION 16. AMENDMENT. Section 53-06.1-09 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-09. Sports pools - Control - Rules posted - Limitation on prizes. A licensed organization or organization that has ~~been issued~~ a local permit may conduct a sports pools pool for professional sports only. ~~The licensed organization or organization that has been issued a local permit shall clearly post any rules affecting the conduct of sports pools or requirements of players.~~ The maximum wager on any a sports pool is five dollars. ~~The amounts paid to sports pool players in amount of prizes may not exceed ninety percent of the gross proceeds.~~

SECTION 17. AMENDMENT. Section 53-06.1-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10. Twenty-one - Sale of chips - Redemption - Wager - Limit - Rules of play - Tips. A licensed organization may conduct and shall control the playing of the game twenty-one on its ~~authorized~~ site. No money may be allowed on the table as a wager. The organization shall provide playing chips of various denominations to players. Chips must be redeemed by the ~~licensee~~ organization for their full value. The maximum limit per wager may be set by the organization at not more than five dollars and wagers in increments of one dollar must be accepted up to the maximum limit. A player may not play more than two hands at the same time. Only the player actually playing a hand may place a wager on any hand. ~~Twenty-one is a card game played by a maximum of seven players and one dealer. The dealer must be a representative of the organization sponsoring the game of chance.~~ Each player plays the player's hand against the dealer's hand. In order to remain in the hand being dealt, neither the player nor the dealer may play a hand with a count greater than twenty-one. A count of twenty-one obtained with two cards is termed a natural twenty-one and is an automatic payout except in case of a tie count with the dealer. Players may double down on a natural twenty-one. ~~In the case of matching or For~~

a tie count between the player and the dealer, no winner is declared and the player keeps the player's wager. ~~A licensee~~ An organization may allow the pooling of tips received by dealers at ~~an authorized~~ a site. Any requirement to pool tips is within the sole discretion of each ~~licensee~~ organization and may not be imposed or encouraged by the attorney general or commission. ~~Each licensee~~ An organization conducting twenty-one shall ~~conspicuously~~ post rules relating to the conduct of the game in a ~~conspicuous location near where the game is played~~. ~~After December 31, 1993, except~~ Except for an organization's ~~authorized~~ site that has twenty-one gross proceeds averaging less than ten thousand dollars per quarter, no organization may conduct twenty-one at an authorized site with wagers exceeding two dollars unless the organization has first installed video surveillance equipment as required by rules ~~adopted by the commission~~ and the equipment is approved by the attorney general. ~~The commission may delay the requirements for surveillance required by this section for good cause shown if the commission specifically finds that the delay would allow the installation of video surveillance equipment of superior technological capability and enhanced enforcement value. In no event may the delay extend beyond July 1, 1994.~~

SECTION 18. AMENDMENT. Section 53-06.1-10.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10.1. Raffles - ~~Limitation - Prizes.~~ Prizes for ~~raffles~~ a raffle may include any property which may be legally owned and possessed, but may not include real estate. Cash prizes may be awarded in ~~raffles~~ a raffle provided the value of no single cash prize exceeds one thousand dollars and provided that total cash prizes do not exceed three thousand dollars in one day.

²³⁴ **SECTION 19. AMENDMENT.** Section 53-06.1-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11. ~~Statement of receipts~~ Gross proceeds - 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, must be deposited in a special account of the licensed organization ~~which contains only that money~~. Cash prizes of an amount to be determined by the attorney general and purchase prices of merchandise prizes must be withdrawn from ~~such this~~ account by consecutively numbered checks duly signed by a specified officer or officers of the organization and payable to a specific person or organization. There must also be written on the check the nature of the prize for ~~which the check is drawn~~. No check may be drawn to "cash" or a fictitious payee. ~~In the case of~~ If a cash prize of ~~more than exceeds~~ 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 devoted to an eligible use recipient may be used by the donee to pay any person for services

²³⁴ Section 53-06.1-11 was also amended by section 1 of House Bill No. 1052, chapter 486, and section 3 of House Bill No. 1355, chapter 485.

rendered or materials purchased in connection with the conduct of games of ~~chance~~ by the donor organization.

3. Subject to the limitations of this subsection, expenses incurred for games of ~~chance~~ may be deducted from adjusted gross proceeds, to the extent that total expenses for games of ~~chance~~ do not exceed fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. However, for an authorized site at which the game pull tabs is the only game of ~~chance~~ conducted and the conduct of pull tabs is through an electronic-mechanical dispensing device, expenses incurred for this game of ~~chance~~ may be deducted from adjusted gross proceeds, based on the average adjusted gross proceeds of all of an organization's authorized sites at which the game of pull tabs is conducted through electronic-mechanical dispensing devices, according to the following:
 - a. On average adjusted gross proceeds not exceeding eight thousand dollars per quarter, an expense limitation of fifty percent.
 - b. On average adjusted gross proceeds exceeding eight thousand dollars per quarter, but not exceeding twelve thousand dollars per quarter, an expense limitation of forty-five percent.
 - c. On average adjusted gross proceeds exceeding twelve thousand dollars per quarter, but not exceeding sixteen thousand dollars per quarter, an expense limitation of forty percent.
 - d. On average adjusted gross proceeds exceeding sixteen thousand dollars per quarter, an expense limitation of thirty-five percent.

Cash shorts incurred in games of ~~chance~~ are classified as expenses toward the expense limitation. Notwithstanding the limitations of this subsection, in addition to ~~the~~ expenses allowed to be deducted from adjusted gross proceeds, a licensed organization may deduct as an expense capital expenditures for security or video surveillance equipment used for controlling games of ~~chance~~ if the equipment is required by section 53-06.1-10 or gaming rules adopted by the commission and the equipment is approved by the attorney general. ~~The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes.~~ This subsection does not authorize violations of the rent limitations ~~contained in this chapter.~~

SECTION 20. AMENDMENT. Section 53-06.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11.1. Eligible organizations not to use any money in certain political activities - Penalty. An eligible organization that derives any revenue from games of ~~chance~~ it conducts ~~under this chapter~~ may not use money from any source for the placing on the ballot of any initiated or referred measure or for any activities consisting of attempts to participate in any political campaign on behalf of or in opposition to any active official or person who is or has been a candidate for public office. Any funds expended by an eligible organization to promote or oppose an initiated or referred measure that has been placed on the ballot or for any activities that qualify as activities of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are not otherwise required to

be reported under section 54-05.1-03 must be reported to the attorney general ~~in the manner and at the times as~~ prescribed by the attorney general. An eligible organization that violates this section is subject to a suspension of its license to conduct games of chance ~~under this chapter~~ for up to one year.

SECTION 21. AMENDMENT. Section 53-06.1-12 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12. Tax based on adjusted gross proceeds Gaming tax. A tax as provided in this section upon the total adjusted gross proceeds received by a licensed organization must be paid to the attorney general on a quarterly basis upon tax return forms as prescribed by the attorney general. ~~The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for expenses.~~ The amount of this tax must be paid from adjusted gross proceeds and may not be charged against the percentage limitation of expenses. The tax is hereby imposed upon every licensed organization, to be levied, collected, and paid quarterly ~~with respect to the adjusted gross proceeds of the organization as provided in this section,~~ computed at the following rates:

1. On adjusted gross proceeds not in excess of two hundred thousand dollars per quarter, a tax of five percent.
2. On adjusted gross proceeds in excess of two hundred thousand dollars per quarter but not in excess of four hundred thousand dollars per quarter, a tax of ten percent.
3. On adjusted gross proceeds in excess of four hundred thousand dollars per quarter but not in excess of six hundred thousand dollars per quarter, a tax of fifteen percent.
4. On adjusted gross proceeds in excess of six hundred thousand dollars per quarter, a tax of twenty percent.

SECTION 22. AMENDMENT. Section 53-06.1-12.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12.1. Games of chance tax Deposits. The state treasurer shall deposit ~~all gaming and excise taxes, monetary fines, and interest and penalties collected under this chapter~~ in the general fund in the state treasury.

SECTION 23. AMENDMENT. Section 53-06.1-12.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12.2. Pull tabs tab excise tax in lieu of sales and use taxes. In addition to any other tax provided by law and in lieu of sales or use taxes, there is imposed a tax of four and one-half percent on the gross proceeds from the sale at retail of pull tabs to a final user. Gross proceeds and a sale at retail for purposes of this section include pull tabs sold and pull tabs provided a player in exchange for redeemed winning pull tabs. The tax imposed by this section must be paid to the attorney general at the time tax returns ~~or reports~~ are filed ~~and taxes paid by the licensed organization under section 53-06.1-12.~~

SECTION 24. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Interest and penalty. Notwithstanding any other provision of this chapter, the attorney general shall assess a licensed organization interest and penalty as follows:

1. Assessment of interest.

- a. An organization that requests and is granted an extension of time for filing a tax return shall pay, with the tax, interest on the tax at the rate of twelve percent per annum from the original due date of the tax return through the date the tax is paid.
- b. If additional tax is due based on an audit or a mathematical verification of a tax return, an organization shall pay interest at the rate of one percent of the additional tax for each month or fraction of a month during which the tax remains unpaid, computed from the due date of the tax return to the date paid.

2. Assessment of penalty.

- a. If an organization, without intent to evade any tax imposed by this chapter, fails to pay the tax due on a tax return, filed on or before the due date or extended due date, the organization shall pay a penalty of five percent of the tax due, or twenty-five dollars, whichever is greater.
 - b. If an organization, without intent to evade any tax imposed by this chapter, fails to file a tax return on or before the due date or extended due date, the organization shall pay a penalty of five percent of the tax due, or twenty-five dollars, whichever is greater, if the failure is for not more than one month, counting each fraction of a month as an entire month, with an additional five percent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five percent in the aggregate.
 - c. If additional tax is due based on an audit or mathematical verification of a tax return, an organization shall pay a penalty as prescribed in subdivision a or b.
3. If an organization fails to pay any tax, interest, or penalty imposed by this chapter, the attorney general shall bring court action to collect the tax, interest, and penalty.
4. The attorney general may for good cause shown waive all or any part of any interest or penalty that was assessed pursuant to this section.
5. If an organization that has failed to file a tax return and has been notified by the attorney general of the delinquency refuses or neglects within thirty days after the notice to file a proper return, the attorney general shall determine the adjusted gross proceeds of the organization according to the best information available, and shall assess the tax at not more than double the amount so determined. The appropriate interest and penalty also apply.
6. Interest and penalty are classified as expenses toward the expense limitation of subsection 3 of section 53-06.1-11.

SECTION 25. AMENDMENT. Section 53-06.1-13 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-13. Examination of books and records. The attorney general and representatives of the governing body of a city or county with respect to a licensed organization or organization that has ~~been issued a local permit by that governing body~~ may examine or cause to be examined the books and records of ~~any licensed the organization or organization that has been issued a local permit to conduct games of chance under this chapter~~ to the extent that such books and records may directly or indirectly relate to any transaction connected with holding, operating, or conducting any game of chance.

SECTION 26. AMENDMENT. Section 53-06.1-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. A manufacturer of pull tabs, manufacturer of ~~paper~~ bingo cards, manufacturer of ~~electronic-mechanical~~ pull tab dispensing devices, manufacturer's distributor of ~~electronic-mechanical~~ pull tab dispensing devices, and distributor shall apply annually for a license upon a form prescribed by the attorney general before the first day of April in each year and shall submit the appropriate license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require. The license fee for a distributor is one thousand five hundred dollars. The license fee for a manufacturer's distributor is five hundred dollars. The license fee for a manufacturer of ~~electronic-mechanical~~ pull tab dispensing devices, manufacturer of pull tabs, ~~paper~~ bingo cards, or both a manufacturer of pull tabs and ~~paper~~ bingo cards, is two thousand dollars.
2. ~~No~~ A distributor may ~~not~~ sell, market, or otherwise distribute raffle tickets or equipment for ~~games of chance~~ except to other licensed distributors, licensed manufacturers' distributors, licensed organizations, organizations that have ~~been issued a local permit, gaming schools,~~ or other persons authorized by the attorney general. A manufacturer of pull tabs or ~~paper~~ bingo cards may not sell, market, or otherwise distribute pull tabs or ~~paper~~ bingo cards, other than to a licensed distributor. A distributor of pull tabs or ~~paper~~ bingo cards must purchase or otherwise receive pull tabs or ~~paper~~ bingo cards only from a licensed manufacturer or licensed distributor. A manufacturer of ~~electronic-mechanical~~ pull tab dispensing devices may not sell, market, or otherwise distribute pull tab dispensing devices other than to a licensed distributor or a licensed manufacturer's distributor. A licensed distributor and licensed manufacturer's distributor of ~~electronic-mechanical~~ pull tab dispensing devices may purchase or otherwise receive pull tab dispensing devices only from a licensed manufacturer, licensed manufacturer's distributor, or licensed distributor.
3. ~~Every~~ An eligible organization shall acquire all raffle tickets or gaming equipment for ~~games of chance~~ from a licensed distributor ~~licensed under this chapter~~, unless the raffle tickets or gaming equipment for ~~games of chance~~ are is printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. No game deal of pull tabs, ~~punchboards~~ punchboard,

sports pool ~~boards board~~, ~~calcutta boards board~~, ~~deal of bingo cards used in a dispensing device~~, or a series of paddlewheel ticket cards may be sold without a North Dakota gaming stamp being affixed to them. ~~North Dakota~~ A licensed ~~distributors~~ distributor shall purchase the North Dakota gaming stamps from the attorney general's office ~~general~~ and the cost for each stamp may not exceed twenty-five cents.

4. ~~No~~ A licensed organization or organization that has ~~been issued~~ a local permit may not be a distributor. ~~No~~ A North Dakota wholesaler of liquor or alcoholic beverages may not be a ~~North Dakota~~ distributor. ~~No~~ ~~North Dakota~~ A licensed manufacturer may not be a ~~North Dakota~~ distributor or have any financial interest in a ~~North Dakota~~ distributor. ~~No~~ ~~North Dakota~~ A distributor may not have any financial interest in a ~~North Dakota~~ licensed manufacturer.
5. The attorney general may, based on reasonable grounds or on written complaint, suspend or revoke an organization's local permit or an organization's, distributor's, manufacturer's distributor, or manufacturer's license for violation, by the organization, distributor, manufacturer's distributor, or manufacturer or any officer, director, agent, member, or employee of the organization, distributor, manufacturer's distributor, or manufacturer, of this chapter or any gaming rule adopted under this chapter.
6. In addition to the basic license fee, the attorney general may require payment of any additional fee necessary to defray the actual ~~costs~~ cost of a background investigation of ~~applicants~~ an applicant. The attorney general may require payment of the estimated additional fee in advance as a condition precedent to beginning the investigation. The attorney general shall notify the an applicant as soon as possible after a determination is made when it is determined that the an additional fee is necessary and shall also notify the applicant of the attorney general's best estimate of the amount of the additional license fee. Any An applicant may then withdraw the application in lieu of paying rather than pay the additional cost fee. The estimated cost fee must be placed into the attorney general's refund fund for use to defray the actual expenses of the background investigation. The remainder of the funds must be returned to the applicant within thirty days of the conclusion of concluding the investigation.

SECTION 27. AMENDMENT. Section 53-06.1-15 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15. Form and display of license and local permit. ~~Each~~ A license and local permit must contain the name and address of the ~~licensed organization or organization that has been issued a local permit and such other information as prescribed by the attorney general or local governing body may require~~.

~~Each~~ Except for the sale of a raffle ticket, a license and site authorization or local permit must be conspicuously displayed at the gaming site when any a game of chance is conducted and for at least thirty minutes thereafter. The sale of a raffle ticket does not require the display of the license or local permit.

SECTION 28. AMENDMENT. Section 53-06.1-15.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15.1. Powers and duties of the attorney general. The attorney general may:

1. Inspect and examine all premises in which gaming is conducted or gaming ~~devices or equipment are~~ is manufactured, sold, or distributed. The attorney general may require a licensed manufacturer to reimburse the attorney general for the reasonable actual cost of transportation, lodging, meals, and incidental expenses incurred in inspecting the manufacturer's facility.
2. Inspect all equipment and supplies in, upon, or about ~~such~~ the premises.
3. Seize and remove from such premises and impound any gaming ~~related~~ equipment, supplies, games of ~~chance~~, or books and records for the purpose of examination and inspection. When books or records are seized, the attorney general shall provide copies of those records or books within ~~twenty-four~~ seventy-two hours of a specific request by the organization for a copy of the books or records seized.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, ~~licensees~~ organizations, lessors, manufacturers, manufacturer's distributors, and distributors, including any affiliated companies on their premises ~~and in the presence of the applicants; licensees; lessors; manufacturers; distributors; or agents~~ concerning any income or expense resulting from any gaming business activity, determine compliance with this chapter or any gaming rule, and require verification of income or, expense, or devotion of net proceeds, and all other matters affecting ~~the enforcement of the policy and provisions~~ of this chapter.
5. ~~Audit and inspect any other books and records of eligible organizations conducting games of chance for the purpose of determining compliance with applicable statutes, rules, and constitutional provisions regarding devotion of net proceeds from games of chance.~~
6. Enter into a reciprocal agreement with the commissioner of the internal revenue service of the United States for exchange of information for state tax administration purposes.

SECTION 29. AMENDMENT. Section 53-06.1-15.2 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15.2. Attorney general may bring civil action for collection of fees and tax and to force compliance.

1. At any time within three years after any amount of fees or tax required to be paid pursuant to this chapter becomes due, the attorney general may bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross income or tax liability by an amount that is in excess of twenty-five percent of the amount of adjusted gross income or tax liability stated on the tax return as filed, any additional tax determined to be due may be assessed any time within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought even though the person owing the fees or tax is not presently a gaming licensee ~~under this chapter.~~

2. The attorney general may institute an action in any district court for declaratory injunctive relief against a person, whether or not the person is a gaming licensee as the attorney general deems necessary to prevent noncompliance with this chapter and the gaming rules adopted pursuant to this chapter.

SECTION 30. AMENDMENT. Section 53-06.1-15.4 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-15.4. Conditional license - Issuance. The attorney general, upon application and at the attorney general's discretion, may issue a conditional license to conduct games of chance to an eligible organization whose regularly issued license has been suspended or revoked for a violation of this chapter or gaming rules adopted under this chapter or whose regularly issued license has been relinquished. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions for issuance of the license ~~as the attorney general determines necessary.~~ Section 53-06.1-16.2 does not apply to an eligible organization to whom a conditional license is issued pursuant to this section.

SECTION 31. AMENDMENT. Section 53-06.1-16 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 32. AMENDMENT. Section 53-06.1-16.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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~~ an eligible organization:

1. To use bogus or counterfeit chips or pull tabs, or to substitute or use any game, cards, pull tabs, or game piece that have been marked or tampered with.
2. To employ or have on one's person any cheating device to facilitate cheating in any game of chance, or to attempt to commit or commit a theft, or to assist in committing any other fraudulent scheme.

3. To willfully use any fraudulent scheme or technique, including when an operator or player of games of pull tabs directly or indirectly solicits, provides, or receives inside information of the status of a game for the benefit of either person.
4. To alter or counterfeit a site authorization, gaming license, or North Dakota gaming stamp.
5. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate this chapter or any gaming rule adopted under this chapter.

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. However, if a person uses a fraudulent scheme regarding soliciting, providing, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving the games of pull tabs, twenty-one, or bingo, regardless of the amount gained, then the offense is a class C felony.

SECTION 33. AMENDMENT. Section 53-06.1-16.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-16.2. License suspension or revocation by attorney general or commission - Ineligibility for local permit. A licensed organization that has its license suspended or revoked by the attorney general ~~or commission~~ or ~~a licensed organization~~ that has not devoted its net proceeds is ineligible for a local permit to conduct raffles, sports pools, or bingo during the period of suspension or revocation.

SECTION 34. AMENDMENT. Section 53-06.1-17 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

53-06.1-17. Rules. The commission shall adopt rules in accordance with chapter 28-32, ~~relating to, but not limited to,~~ to include methods of play, conduct, and promotion of games of ~~chance~~; methods, procedures, and minimum standards for ~~accounting and~~ recordkeeping; requiring reports by licensed organizations; methods of competition and doing business by distributors, manufacturers, and manufacturers' distributors; marking or identification of raffle tickets, pull tabs, bingo equipment, pull tab receptacles, punchboards, or any other ~~implements of gambling~~ gaming equipment used or distributed in this state ~~to implement or effectuate the provisions and purpose of this chapter~~; quality standards for the manufacture of pull tabs and bingo cards, pull tab and bingo card dispensing devices, and paper bingo cards; 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 protect and promote the public interest; to ensure fair and honest games of ~~chance~~; to ensure that fees and taxes are paid; to impose monetary fines and establish appeal procedures; to establish guidelines for work permits issued by counties and cities; and to ~~seek to prevent or~~ and detect unlawful gambling activity.

SECTION 35. REPEAL. Section 53-06.1-04 of the North Dakota Century Code and sections 53-06.1-02.1, 53-06.1-05, and 53-06.1-08.1 of the 1993 Supplement to the North Dakota Century Code are repealed.

Approved April 11, 1995

Filed April 12, 1995

CHAPTER 485**HOUSE BILL NO. 1355**

(Representatives Payne, Kretschmar)
(Senators W. Stenehjem, Wogsland)

GAMING SITE EMPLOYEE ASSISTANCE TO GAMING ORGANIZATIONS

AN ACT to amend and reenact subsection 3 of section 53-06.1-03, section 53-06.1-06, and subsection 3 of section 53-06.1-11 of the North Dakota Century Code, relating to licensure of eligible organizations and allowable expenses for games of chance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁵ **SECTION 1. AMENDMENT.** Subsection 3 of section 53-06.1-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. The attorney general shall license eligible organizations that conform to the requirements of this chapter ~~by issuing licenses as follows:~~
 - a: ~~A class A license to an eligible organization that is a fraternal, veterans, or civic and service organization.~~
 - b: ~~A class B license to an eligible organization that is a charitable, religious, educational, public spirited, or public safety 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. An eligible organization that qualifies for a class A license may not also be issued a class B license.~~
 - e: ~~The commission may 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 licensed organization, and the adjusted gross proceeds collected or expected to be collected by the licensed organization.~~

²³⁶ **SECTION 2. AMENDMENT.** Section 53-06.1-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

²³⁵ Section 53-06.1-03 was also amended by section 4 of House Bill No. 1168, chapter 484.

²³⁶ Section 53-06.1-06 was also amended by section 9 of House Bill No. 1168, chapter 484.

1. No person, except a member or employee of a licensed organization or an organization that has been issued a local permit or a member of an organization auxiliary to a licensed organization or an organization that has been issued a local permit, may assist in the holding, operating, or conducting of any game of chance under this chapter. In the conduct of pull tabs through an electronic-mechanical dispensing device, the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance to ~~a class B licensed organization whose adjusted gross proceeds does not exceed eighty thousand dollars per quarterly reporting period of operation or to any class A licensed organization~~ organizations. However, a volunteer of an eligible organization may sell raffle tickets.
 2. Except when authorized by the attorney general, no games of chance may be conducted with any gaming equipment other than gaming equipment owned by an eligible organization or rented at a reasonable rate by an eligible organization from a licensed distributor.
 3. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and distribution of the net proceeds of games of chance.
 4. The gaming site where any game of chance is being held, operated, or conducted, or where it is intended that the game will be held, must be open to inspection by the attorney general and by law enforcement officials of this state.
 5. When any merchandise prize is awarded in a game of chance, its value is its current retail price.
 6. Equipment, prizes, and supplies for games of chance may not be purchased or sold at prices in excess of the usual price thereof.
 7. ~~A class A organization must devote the entire net proceeds derived from conducting games of chance within three months from the end of the quarter in which such proceeds were earned to eligible uses. A class A organization desiring to hold the net proceeds for a period longer than three months shall apply to the attorney general for special permission, and upon good cause shown, the attorney general may grant the request.~~
 8. No person who has pled guilty to or been found guilty of a felony may sell or distribute equipment, or conduct or assist in games of chance under this chapter for five years from the date of the conviction or release from incarceration, parole, or probation, whichever is the latter. No person determined by the attorney general to have participated in organized crime or unlawful gambling, may be permitted to sell or distribute equipment, or conduct or assist in games of chance under this chapter for a period determined by the attorney general.
9. 8. 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.

- ~~10~~ 9. The attorney general or commission may prohibit a person from playing games of chance if the person violates this chapter or any rule adopted under this chapter.
- ~~11~~ 10. The attorney general or commission may require a licensed organization to pay a bingo or raffle prize to a player based on a factual determination, after opportunity for the parties to be heard, by the attorney general or commission.
- ~~12~~ 11. If bingo is the primary game of chance conducted at an authorized site, no licensed organization may pay bingo prizes in which the aggregate of the bingo prizes for a quarter exceeds the total bingo gross proceeds for the quarter at that site. However, a bingo prize that equals or exceeds ten thousand dollars is excluded from the computation of the aggregate of the bingo prizes.
12. An organization shall disburse net proceeds within the period prescribed by rule.

²³⁷ **SECTION 3. AMENDMENT.** Subsection 3 of section 53-06.1-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Subject to the limitations of this subsection, expenses incurred for games of chance may be deducted from adjusted gross proceeds, to the extent that total expenses for games of chance do not exceed fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. ~~However, for an authorized site at which the game pull tabs is the only game of chance conducted and the conduct of pull tabs is through an electronic-mechanical dispensing device, expenses incurred for this game of chance may be deducted from adjusted gross proceeds, based on the average adjusted gross proceeds of all of an organization's authorized sites at which the game of pull tabs is conducted through electronic-mechanical dispensing devices, according to the following:~~
- a. ~~On average adjusted gross proceeds not exceeding eight thousand dollars per quarter, an expense limitation of fifty percent.~~
 - b. ~~On average adjusted gross proceeds exceeding eight thousand dollars per quarter, but not exceeding twelve thousand dollars per quarter, an expense limitation of forty-five percent.~~

²³⁷ Section 53-06.1-11 was also amended by section 1 of House Bill No. 1052, chapter 486, and section 19 of House Bill No. 1168, chapter 484.

- e. ~~On average adjusted gross proceeds exceeding twelve thousand dollars per quarter, but not exceeding sixteen thousand dollars per quarter, an expense limitation of forty percent.~~
- d. ~~On average adjusted gross proceeds exceeding sixteen thousand dollars per quarter, an expense limitation of thirty-five percent.~~

Cash shorts incurred in games of chance are classified as expenses toward the expense limitation. Notwithstanding the limitations of this subsection, in addition to the expenses allowed to be deducted from adjusted gross proceeds, a licensed organization may deduct as an expense capital expenditures for security or video surveillance equipment used for controlling games of chance if the equipment is required by section 53-06.1-10 or rules adopted by the commission and the equipment is approved by the attorney general. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes. This subsection does not authorize violations of the rent limitations contained in this chapter.

Approved April 4, 1995
Filed April 4, 1995

CHAPTER 486**HOUSE BILL NO. 1052**

(Legislative Council)

(Interim Judiciary Committee)

(Representatives Brown, Coats, Kretschmar)

PULL TABS EXPENSE DEDUCTION

AN ACT to amend and reenact section 53-06.1-11 of the North Dakota Century Code, relating to the expense limitation for games of chance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁸ **SECTION 1. AMENDMENT.** Section 53-06.1-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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, must be deposited in a special account of the licensed organization which contains only that money. Cash prizes of an amount to be determined by the attorney general and purchase prices of merchandise prizes must be withdrawn from such account by consecutively numbered checks duly signed by a specified officer or officers of the organization and payable to a specific person or organization. There must also be written on the check the nature of the prize for which the check is drawn. No check may 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 devoted to an eligible use recipient may be used by the donee to pay any person for services rendered or materials purchased in connection with the conduct of games of chance by the donor organization.
3. Subject to the limitations of this subsection, expenses incurred for games of chance may be deducted from adjusted gross proceeds, to the extent that total expenses for games of chance do not exceed fifty percent of the first two hundred thousand dollars of adjusted gross proceeds per quarter and forty-five percent of the adjusted gross proceeds in excess of two hundred thousand dollars per quarter. However, for an authorized site at which the game pull tabs is the only game of chance conducted and the conduct of pull tabs is through an electronic-mechanical dispensing device, expenses incurred for this game of chance may be deducted from adjusted gross proceeds, based on the average adjusted

²³⁸ Section 53-06.1-11 was also amended by section 3 of House Bill No. 1355, chapter 485, and section 19 of House Bill No. 1168, chapter 484.

gross proceeds of all of an organization's authorized sites at which the game of pull tabs is conducted through electronic-mechanical dispensing devices, according to the following:

- a. On average adjusted gross proceeds not exceeding eight thousand dollars per quarter, an expense limitation of fifty percent.
- b. On average adjusted gross proceeds exceeding eight thousand dollars per quarter, but not exceeding twelve thousand dollars per quarter, an expense limitation of forty-five percent.
- c. On average adjusted gross proceeds exceeding twelve thousand dollars per quarter, but not exceeding sixteen thousand dollars per quarter, an expense limitation of forty percent.
- d. On average adjusted gross proceeds exceeding sixteen thousand dollars per quarter, an expense limitation of thirty-five percent.

Cash shorts incurred in games of chance are classified as expenses toward the expense limitation. Notwithstanding the limitations of this subsection, in addition to the expenses allowed to be deducted from adjusted gross proceeds, a licensed organization may deduct as an expense capital expenditures for security or video surveillance equipment used for controlling games of chance if the equipment is required by section 53-06.1-10 or rules adopted by the commission and the equipment is approved by the attorney general. The figure used for adjusted gross proceeds is as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes. This subsection does not authorize violations of the rent limitations contained in this chapter.

4. In addition to the expense limitation provided in subsection 3, an organization that conducts the game of pull tabs at an authorized site may deduct as an expense two and one-half percent of the gross proceeds for this game of chance.

Approved March 29, 1995
Filed March 29, 1995

CHAPTER 487

HOUSE BILL NO. 1365

(Representatives Mutzenberger, Tollefson, Wilkie, Kelsch)
(Senators Bowman, Krebsbach)

RACING FUNDS USE

AN ACT to amend and reenact subsection 2 of section 53-06.2-11 of the North Dakota Century Code, relating to uses of racing funds in excess of expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 53-06.2-11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 2. For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty-five percent of each wagering pool. Of this amount, the licensee may retain twenty-one percent for expenses. One-half of one percent must be paid to the ~~North Dakota racing~~ commission to be ~~used for the North Dakota~~ deposited in the purse fund. One-half of one percent must be paid to the commission to be deposited in the promotion fund. One-half of one percent must be paid to the ~~North Dakota racing~~ commission to be ~~used for the North Dakota~~ deposited in the breeders' fund. The remaining ~~three two and one-half~~ percent must be paid to the state treasurer to be deposited in the general fund.

Approved March 21, 1995
Filed March 21, 1995

CHAPTER 488**HOUSE BILL NO. 1199**

(Representatives Wald, Gorman)
(Senator Mathern)

PRIZE NOTICES

AN ACT to provide for the regulation of prize notices; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act, unless the context otherwise requires:

1. "Prize" means an item or service of value that is offered or awarded to a participant in a real or purported contest, competition, sweepstakes, puzzle, drawing, scheme, plan, or other selection process.
2. "Retail value" of a prize means:
 - a. A price at which the sponsor can substantiate that a substantial number of the prizes have been sold to the public in this state during the preceding year; or
 - b. If the sponsor is unable to satisfy the requirement in subdivision a, then no more than one and one-half times the amount the sponsor paid or would pay for the prize in a bona fide purchase from an unaffiliated seller.
3. "Sponsor" means a person that requires another person in this state to pay money as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, or that creates the reasonable impression that such a payment is required.

SECTION 2. Disclosures required.

1. A sponsor may not require a person to pay the sponsor money as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize. A sponsor may not use a solicitation that creates the reasonable impression that a payment is required, unless the sponsor first has delivered to the person written prize notice containing the following information:
 - a. The true name or names of the sponsor and the address of the sponsor's actual principal place of business;
 - b. The retail value of each prize the person receiving the notice has been selected to receive or may be eligible to receive;
 - c. A statement of the person's odds of receiving each prize identified in the notice;

- d. Any requirement that the person pay shipping or handling fees or any other charges to obtain or use a prize, including the nature and amount of the charges;
 - e. If receipt of the prize is subject to a restriction, a statement that a restriction applies, and a description of the restriction;
 - f. Any limitation on eligibility; and
 - g. If a sponsor represents that the person is a "winner", is a "finalist", has been "specially selected", is in "first place", or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize, the written prize notice must contain a statement of the maximum number of persons in the group or purported group with this enhanced likelihood of receiving a prize.
2. The information required by subsection 1 must be presented in the following form:
- a. The retail value and the statement of odds required must be stated in immediate proximity to each identification of a prize on the written notice and must be in the same size and boldness of type as the reference to the prize. The statement of odds must include, for each prize, the total number of prizes to be given away and the total number of written prize notices to be distributed. The number of prizes and written prize notices must be stated in Arabic numerals. The statement of odds must be in the following form:

_____ (number of prizes) out of _____ notices distributed.
 - b. If a person is required to pay a shipping or handling fee or any other charge to obtain a prize, to be eligible to obtain a prize, or participate in a contest, the following statement must appear in immediate proximity to each listing of the prize in the written prize notice, in not less than ten-point boldface type: YOU MUST PAY \$_____ TO RECEIVE THIS ITEM or YOU MUST PAY \$_____ TO COMPETE FOR THIS ITEM, whichever is applicable.
 - c. The statement required under subdivision g of subsection 1 must appear in immediate proximity to each representation that the person is among a group of persons with an enhanced likelihood of receiving a prize and must be in the same size and boldness of type as the representation.

SECTION 3. Prize award required. No later than thirty days after making the representation, a sponsor who represents to a person that the person has been awarded a prize shall provide the person with the prize, or with a voucher, certificate, or other document giving the person the unconditional right to receive the prize, or provide the person with either of the following items selected by the person:

1. Any other prize listed in the written prize notice that is available and that is of equal or greater value; or
2. The retail value of the prize, as stated in the written notice, in the form of cash, a money order, or a certified check.

SECTION 4. Exemptions.

1. This Act does not create liability for acts by the publisher, owner, agent, or employee of an advertising agency, a newspaper, periodical, radio station, television station, cable television system, or other advertising medium arising out of the publication or dissemination of a solicitation, notice, or promotion governed by this Act, unless the publisher, owner, agent, or employee had knowledge that the solicitation, notice, or promotion violated the requirements of this Act, or had a financial interest in the solicitation, notice, or promotion.
2. This Act does not apply to solicitations or representations, in connection with:
 - a. The sale or purchase of books, recordings, videocassettes, periodicals, and similar goods through a membership group or club that is regulated by the federal trade commission under title 16, Code of Federal Regulations, part 425.1 concerning use of negative option plans by sellers in commerce.
 - b. The sale or purchase of goods ordered through a contractual plan or arrangement such as a continuity plan, subscription arrangement, or a single sale or purchase series arrangement under which the seller ships goods to a consumer who has consented in advance to receive the goods and after the receipt of the goods is given the opportunity to examine the goods and to receive a full refund of charges for the goods upon return of the goods undamaged.
 - c. A sale by a catalog seller that derives at least fifty percent of its annual revenues from the sale of products sold in connection with the distribution of catalogs of at least twenty-four pages that contain written descriptions or illustrations and sale prices for each item of merchandise, if the catalogs are distributed in more than one state with a total annual distribution of at least two hundred fifty thousand.

SECTION 5. Penalty - Remedies.

1. A violation of this Act is an unlawful practice in violation of section 51-15-02 and is subject to applicable provisions of chapter 51-15.
2. A person who intentionally violates this Act is guilty of a class C felony. It is evidence of intent if the violation occurs after the attorney general has notified a person by certified mail that the person is in violation of this section.
3. A person suffering pecuniary loss because of an intentional violation of this section may bring an action in district court to recover costs, reasonable attorney fees, and the greater of five hundred dollars or twice the amount of the pecuniary loss.

4. This Act provides relief in addition to the remedies or penalties provided under other law.

Approved March 15, 1995

Filed March 15, 1995