CHAPTER 12.1-28
GAMBLING AND RELATED OFFENSES

12.1-28-01. Gambling - Definitions.

As used in this chapter:

1. "Gambling" means risking any money, credit, deposit, or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:
   a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries;
   b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law; or
   c. Use of gaming equipment and devices that may not otherwise be lawful in the state when the equipment or devices are used by any institution under the control of the state board of higher education which awards degrees of bachelor's or higher for the purpose of conducting scientific research in a controlled environment on the campus of that institution.
2. "Gambling apparatus" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons, or gambling by a person involving the playing of a machine. Gambling apparatus does not include an amusement game or device as defined in section 53-04-01.
3. "Gambling house" means any location or structure, stationary or movable, wherein gambling is permitted or promoted, or where a lottery is conducted or managed. In the application of this definition, any place where gambling apparatus is found is presumed to be a gambling house, provided that this presumption shall not apply where cards, dice, or other games are found in a private residence.
4. "Lottery" means any plan for the distribution of a thing of value, whether tangible or intangible, to a person or persons selected by chance from among participants, some or all of whom have given a consideration for the chance of being selected.

12.1-28-02. Gambling - Related offenses - Classification of offenses.

Except as permitted by law:

1. It is an infraction to engage in gambling on private premises where the total amount wagered by an individual player exceeds twenty-five dollars per individual hand, game, or event.
2. It is a class A misdemeanor to:
   a. Sell, purchase, receive, or transfer a chance to participate in a lottery, whether the lottery is drawn in state or out of state, and whether the lottery is lawful in the other state or country;
   b. Disseminate information about a lottery with intent to encourage participation in it, except that a legal lottery may be advertised in North Dakota; or
   c. Engage in gambling on private premises where the total amount wagered by an individual player exceeds five hundred dollars per individual hand, game, or event.
3. A person is guilty of a class C felony if that person engages or participates in the business of gambling. Without limitation, a person is deemed to be engaged in the business of gambling if that person:
   a. Conducts a wagering pool or lottery;
   b. Receives wagers for or on behalf of another person;
   c. Alone or with others, owns, controls, manages, or finances a gambling business;
   d. Knowingly leases or otherwise permits a place to be regularly used to carry on a gambling business or maintain a gambling house;
   e. Maintains for use on any place or premises occupied by that person a coin-operated gaming device; or

f. Is a public servant who shares in the proceeds of a gambling business whether by way of a bribe or otherwise.

4. a. As used in subsection 3 but with the exceptions provided by subdivision b of this subsection, the term "coin-operated gaming device" means any machine that is:
   (1) A so-called "slot" machine that operates by means of the insertion of a coin, token, or similar object and which, by application of the element of chance, may deliver, or entitle the person playing or operating the machine to receive cash, premiums, merchandise, or tokens; or
   (2) A machine that is similar to machines described in paragraph 1 and is operated without the insertion of a coin, token, or similar object.

   b. The term "coin-operated gaming device" does not include a bona fide vending or amusement machine in which gambling features are not incorporated as defined in section 53-04-01, or an antique "slot" machine twenty-five years old or older that is collected and possessed by a person as a hobby and is not maintained for the business of gambling.

   c. A law enforcement officer may seize any device described in subdivision a upon probable cause to believe that the device was used or is intended to be used in violation of this chapter or chapter 53-06.1. The court shall order the device forfeited in the same manner and according to the same procedure as provided under chapter 29-31.1.