

# SPORTS AND AMUSEMENTS

## CHAPTER 544

SENATE BILL NO. 2212  
(Committee on Social Services and Veterans Affairs)  
(At the request of the Attorney General)

### DANCE AND MUSICAL PERFORMANCE REQUIREMENT

AN ACT to amend and reenact sections 53-02-01 and 53-02-08 of the North Dakota Century Code, relating to definitions of dances, dancing places, and musical performances and requirements for an officer of law to be in attendance at a public dance; and to repeal sections 53-02-02, 53-02-03, 53-02-04, 53-02-05, 53-02-06, 53-02-07, and 53-02-09 of the North Dakota Century Code, relating to permits and restrictions on public dances.

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

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

53-02-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Music festival" means a musical performance by one or more groups held out-of-doors, whether or not an admission fee is charged with the audience being present primarily for the purpose of listening to music.
2. "Person" means a natural person, firm, association, or corporation.
3. "Public concert" means a musical performance by one or more groups held indoors where the audience is seated by reserve or general admission, free of charge, or otherwise with the audience being present primarily for the purpose of listening to music and the location of such musical performance having a seating capacity of at least one thousand people.
4. "Public dance" means any dance where the public may participate, whether an admission fee is charged or not and where the public is present primarily for the purpose of dancing and where the location of the dance has a seating capacity of at least five hundred people.

5. "Public dancing place" means a room, place, or space, which has a seating capacity of at least five hundred people, open to public patronage where dancing in which the public may participate is carried on and to which an admission may or may not be charged and where the public is present primarily for the sole purpose of dancing.

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

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

SECTION 3. REPEAL. Sections 53-02-02, 53-02-03, 53-02-04, 53-02-05, 53-02-06, 53-02-07, and 53-02-09 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1983

## CHAPTER 545

HOUSE BILL NO. 1653  
(Representatives E. Pomeroy, Boyle, Rayl)  
(Senator Waldera)

## AMUSEMENT GAME AND DEVICE LICENSURE AND FEES

AN ACT to amend and reenact sections 53-04-01, 53-04-02, and 53-04-05 of the North Dakota Century Code, relating to definitions of amusement games or devices, licenses and fees for amusement games and devices; and to repeal sections 53-04-03, 53-04-04, and 53-04-06 of the North Dakota Century Code, relating to licenses and fees for amusement games and devices.

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

SECTION 1. AMENDMENT. Section 53-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Amusement games or devices" shall include such coin-operated games and devices as electric ray guns, music boxes, picture boxes, bumper-ball or pinball, and other similar coin-operated miniature games or devices, whether or not they show a score, ~~where a charge for playing or operating is collected~~ but shall not apply to any machine which may constitute a lottery under the laws of this state.
2. "Person" shall include any partnership or corporation.

SECTION 2. AMENDMENT. Section 53-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-02. License of amusement games and devices Annual license required - Fee. ~~No A person owning any amusement game or device which can be operated legally in this state shall set up for operation, may not operate, lease, or distribute for the purpose of operating, such an amusement game or device without first having obtained a an annual license therefor.~~

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

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

SECTION 3. AMENDMENT. Section 53-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-05. Administering and enforcing provisions of chapter - Confiscation of machines and devices. The attorney general's licensing department general shall administer and enforce the provisions of this chapter, and for that purpose the attorney general is directed and authorized to make, promulgate, and enforce such reasonable may adopt rules and regulations as he may deem deemed necessary and expedient. The attorney general and the inspectors of such department may confiscate all machines and devices as defined in this chapter upon which the license fee required as provided in section 53-04-04 has not been paid, and may do any and all acts necessary or expedient for the strict enforcement of the provisions of this chapter that are not covered by an appropriate license or are machines primarily designed for gambling.

SECTION 4. REPEAL. Sections 53-04-03, 53-04-04, and 53-04-06 of the North Dakota Century Code are hereby repealed.

Approved April 5, 1983

## CHAPTER 546

SENATE BILL NO. 2067  
(Legislative Council)  
(Interim Political Subdivisions Committee)

## GAMES OF CHANCE LIMITATIONS

AN ACT to create and enact a new subsection to section 15-20.4-02, nine new sections to chapter 53-06.1, a new subsection to section 53-06.1-01, a new subsection to section 53-06.1-06, and a new section to chapter 54-12 of the North Dakota Century Code, relating to games of chance, regulatory power of the state board of vocational education, definitions, allocation of tax revenues, limitations on hours and participation in games of chance and regulation of the number of twenty-one tables per site and the number of sites per eligible organization, persons permitted to conduct games of chance, unlawful use of bogus chips, marked cards, cheating devices, and fraudulent schemes, powers and duties of the attorney general, license suspension or revocation, and work permits; to amend and reenact subsections 7 and 15 of section 53-06.1-01, subsection 3 of section 53-06.1-03, sections 53-06.1-04, 53-06.1-05, subsections 2 and 9 of section 53-06.1-06, sections 53-06.1-08, 53-06.1-10, subsection 3 of section 53-06.1-11, and sections 53-06.1-12 and 53-06.1-16 of the North Dakota Century Code, relating to definitions, permit fees for games of chance site approval, licensure, bingo and raffles conducted by educational organizations and college fraternities and sororities, allowable wagers in the game twenty-one, persons permitted to conduct games of chance and distribute equipment, maximum price per jar ticket, sports pools, twenty-one, tax on adjusted gross proceeds received by eligible organizations conducting games of chance, expenses which may be deducted by eligible organizations, and payment of a portion of the tax collected to the city or county granting approval of the site; and to provide penalties.

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

SECTION 1. A new subsection to section 15-20.4-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Schools instructing on the manner of conducting games of chance which are regulated under chapter 53-06.1.

SECTION 2. AMENDMENT. Subsections 7 and 15 of section 53-06.1-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

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 in existence for two years.
15. "Other public-spirited organization" means a nonprofit organization which has been in existence within this state for two years and is recognized by the governing body of a city or county by resolution as public-spirited and eligible to conduct games of chance under this chapter.

SECTION 3. A new subsection to section 53-06.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Person" means any person, firm, corporation, association, or organization.

SECTION 4. AMENDMENT. Subsection 3 of section 53-06.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Games of chance ~~shall~~ may be operated or conducted only on premises or sites set forth in the application as follows:
  - a. Class A license applicants ~~shall be~~ are limited to one location. A special permit for an alternate location may be granted by the attorney general for a single specific occasion per licensing year upon written request.
  - b. Class B license applicants ~~shall~~ must first secure approval of the proposed site or sites on which it intends to conduct games of chance under this chapter from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are located. This approval or permit, which may be granted at the discretion of the governing body, must accompany the license application to the attorney general. The governing body may charge a ~~ten~~ one hundred dollar fee for this permit, which the organization may deduct from its tax liability under section 53-06.1-12 for the year in which the permit fee is paid.
  - c. Rented premises ~~shall be~~ are subject to rules adopted by the attorney general. At sites where the game of

- twenty-one is conducted, the maximum monthly rent shall not exceed one hundred fifty dollars multiplied by the number of tables on which the game of twenty-one is played for any purposes associated with the right to conduct all games of chance at that site.
- d. Only one eligible organization at a time may be authorized to conduct games of chance at a specific location, except that a raffle drawing may be conducted for special occasions when one of the following conditions are met:
- (1) When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
- (2) Upon request of the licensee, the license is suspended for that specific day by the attorney general.
- e. Licenses, rules of play, and state identification devices ~~shall~~ must be displayed on forms and in the manner specified in rules adopted by the attorney general.

SECTION 5. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Limitations on hours and participation in games of chance. A person under twenty-one years of age may not participate in the games of pull tabs, jars, punchboards, twenty-one, or sports pools. The games of pull tabs, jars, punchboards, twenty-one, or sports pools may be conducted only during the hours when alcoholic beverages may be dispensed in accordance with applicable regulations of the state or the political subdivision.

SECTION 6. AMENDMENT. Section 53-06.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-04. College fraternities and sororities allowed to conduct raffles and bingo - Use of proceeds. A college fraternity or sorority recognized by the administration of a North Dakota college or university shall be eligible to conduct raffles and bingo under the provisions of this chapter. The entire net proceeds of such raffles and bingo shall be devoted to educational, charitable, patriotic, or other public-spirited uses as defined by this chapter.

SECTION 7. AMENDMENT. Section 53-06.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-05. City Local approval for educational organizations, college fraternities, and sororities for raffles and bingo. A an educational organization, college fraternity, or sorority shall apply in writing to the governing body of the city in which it is located, or to the board of county commissioners where if the educational organization or the college is located outside the geographical limits of a city, for permission to conduct a raffle raffles or bingo at least thirty days prior to each occasion. The application shall state the time, place, and educational, charitable, patriotic, or other public-spirited uses to which the proceeds will be devoted. The An applicant fraternity or sorority shall include a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity or sorority. The governing body may at its own discretion, and upon application by a fraternity or sorority, grant permission for raffles and bingo to be held at specifically designated times and places for specific uses covering a one-year period. The governing body may by ordinance or resolution establish authorization fees not to exceed ten dollars for an authorization for one occasion and not to exceed twenty-five dollars for an authorization covering more than one occasion. If the governing body, at its own discretion, chooses to authorize raffles or bingo pursuant to this chapter, the governing body may do so by resolution.

SECTION 8. AMENDMENT. Subsections 2 and 9 of section 53-06.1-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. No item of expense incurred in connection with the holding, operating, or conducting of any game of chance held, operated, or conducted pursuant to this chapter shall may be deducted from adjusted gross proceeds, except bona fide expenses in reasonable amounts as provided under section 53-06.1-11. No games of chance shall may be conducted with any equipment other than equipment owned by an eligible organization or rented at a reasonable rate from by an eligible organization from a licensed distributor.
9. No person, firm, corporation, association, or organization convicted of a felony or a class A misdemeanor within the last two years, or determined by the attorney general to have participated in organized crime or unlawful gambling, shall may be permitted to sell, or distribute, equipment, or conduct, or assist in games of chance under this chapter.

SECTION 9. A new subsection to section 53-06.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

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.

SECTION 10. AMENDMENT. Section 53-06.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 11. AMENDMENT. Section 53-06.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-10. Twenty-one - Sale of chips - Redemption - Wager - Limit - Rules of play. Any licensee or other eligible organization may conduct and control the playing of the card game twenty-one on the licensee's or eligible organization's premises or authorized site, but at no other location. No money shall may be allowed on the table. The licensee or eligible organization shall provide playing chips of various denominations to the participants. Chips shall be redeemed by the licensee or eligible organization for their full value. A The maximum limit per wager shall be is two dollars and ~~no~~. A wager of one dollar must be accepted. A player may not play more than two hands at the same time, and no player may play two hands unless another position is open at the table and no other player wishes to play at that position. 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 shall be a representative of the eligible organization sponsoring the game of chance. All players play their 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 ~~entitled to~~ an automatic pay out except in case of a tie count with the dealer. Players may double down on a natural twenty-one. In the case of matching or tie count between the player and the dealer no winner is declared and both persons keep their wager. Each licensee or eligible

organization conducting twenty-one shall post rules relating to the conduct of the game in a conspicuous location near where the game is played.

SECTION 12. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Raffles - Limitation - Prizes. Prizes for raffles may include any property which may be legally owned and possessed, but may not include real estate. Cash prizes may be awarded in raffles conducted under this chapter provided the value of no single cash prize exceeds five hundred dollars, and provided further that no eligible organization may award cash prizes totaling more than five hundred dollars in the aggregate during any day.

SECTION 13. AMENDMENT. Subsection 3 of section 53-06.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. No item of expense incurred in connection with holding, operating, or conducting any game of chance pursuant to this chapter shall ~~may~~ be deducted from adjusted gross proceeds, except bona fide expenses of a reasonable amount actually and necessarily incurred and directly attributable only to the conduct of the games of chance. Bona fide expenses shall ~~do~~ not include overhead, capital costs, and general maintenance. Total expenses for games of chance shall ~~may~~ not exceed thirty-five percent of the total adjusted gross proceeds from each such occasion for eligible organizations conducting games of chance on more than one site, and may not exceed thirty-eight percent of total adjusted gross proceeds from each such occasion for eligible organizations conducting games of chance on only one site. The figure used for adjusted gross proceeds shall ~~be is~~ be as determined in subsection 1 of section 53-06.1-01 before any reduction for taxes.

SECTION 14. AMENDMENT. Section 53-06.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-12. Tax based on adjusted gross proceeds. A tax of five percent of as provided in this section upon the total adjusted gross proceeds received by a licensed eligible organization shall be paid to the licensing authority ~~for deposit in the general fund~~ on a quarterly basis in such manner and upon such forms as shall be prescribed by the licensing authority by rule. The figure used for adjusted gross proceeds shall ~~be is~~ be as determined in subsection 1 of section 53-06.1-01 before any reduction for expenses. The amount of this tax shall be paid from adjusted gross proceeds and not charged against the percentage limitation of expenses. The tax is hereby imposed upon every eligible organization, to be levied, collected, and paid quarterly with respect to the adjusted gross proceeds of

the eligible organization as provided in this section, computed at the following rates:

1. On adjusted gross proceeds not in excess of six hundred thousand dollars per quarter, a tax of five percent.
2. On adjusted gross proceeds in excess of six hundred thousand dollars per quarter, a tax of twenty percent.

SECTION 15. AMENDMENT. Section 53-06.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06.1-16. Violation of chapter or rule - Misdemeanor - Forfeiture of licensure - Ineligibility ~~for year~~. Any person who knowingly makes a false statement in any application for a license or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, expenses, or uses resulting from games of chance conducted under this chapter, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any game of chance, or who violates any of the provisions of this chapter, any rule adopted under this chapter, or of any term of a license ~~shall be~~ is guilty of a class A misdemeanor. If convicted, ~~such organization or the person shall forfeit~~ forfeits any license or authorizing resolution issued to it pursuant to this chapter and ~~shall be~~ is ineligible to reapply for a license or authorization for ~~two years thereafter~~ a period of time to be determined by the attorney general.

SECTION 16. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

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

The remaining tax collected under section 53-06.1-12 shall be paid by the licensing authority to the state treasurer for deposit in the state general fund. Any amounts received by a city or county under this section must be used by the city or county for expenses connected with enforcement of this chapter within the city or county.

SECTION 17. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Regulation by city or county of number of twenty-one tables per site and number of sites per eligible organization. Cities, for sites or locations within city limits, or counties, for sites or locations outside city limits, may establish by ordinance or resolution a maximum number of tables for twenty-one per site and a maximum number of sites upon which an eligible organization may conduct games of chance within the city or county.

SECTION 18. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

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. 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 rules adopted pursuant to this chapter.

SECTION 19. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

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

A person violating this section is guilty of a class A misdemeanor unless the amount gained through the use of these items,

schemes, or techniques resulted in a person obtaining over five hundred dollars, then the offense is a class C felony.

SECTION 20. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Powers and duties of the attorney general. The attorney general or the agents of the attorney general may:

1. Inspect and examine all premises in which gaming is conducted or gaming devices or equipment are manufactured, sold, or distributed.
2. Inspect all equipment and supplies in, upon, or about such premises.
3. Seize and remove from such premises and impound any equipment or supplies for the purpose of examination and inspection pursuant to an appropriate court order.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, licensees, and distributors on their premises and in the presence of the licensees, distributors, or agents concerning the gross income produced by any gaming business, and require verification of income, 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 distribution of proceeds from games of chance.

SECTION 21. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Work permits. Cities, for sites within city limits, and counties, for sites outside city limits, may require a person associated with the conduct of games of chance to obtain a work permit, charge a fee for issuance of a work permit, and conduct reasonable inquiries into the background of the individual. Any fee charged for issuance of a work permit may not exceed the actual expense to the city or county of licensing the applicant. The attorney general may adopt guidelines relating to issuance of work permits by counties and cities.

SECTION 22. A new section to chapter 53-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

License suspension or revocation by attorney general - Ineligibility for local authorization. Any person whose class A or class B license is suspended or revoked by the attorney general is ineligible for local authorization to conduct raffles or bingo during the period of suspension or revocation.

SECTION 23. A new section to chapter 54-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

Regulation of gaming schools. The attorney general shall regulate schools offering training and methods of conducting games of chance and shall adopt any rules necessary.

Approved April 28, 1983