

NORTH CAROLINA

CHAPTER 8. EVIDENCE

ARTICLE 7. COMPETENCY OF WITNESSES

§ 19-5. Content of final judgment and order.

If the existence of a nuisance is admitted or established in an action as provided for in this Chapter an order of abatement shall be entered as a part of the judgment in the case, which judgment and order shall perpetually enjoin the defendant and any other person from further maintaining the nuisance at the place complained of, and the defendant from maintaining such nuisance elsewhere within the jurisdiction of this State. Lewd matter, illegal alcoholic beverages, gambling paraphernalia, or substances proscribed under the North Carolina Controlled Substances Act shall be destroyed and not be sold.

Such order may also require the effectual closing of the place against its use thereafter for the purpose of conducting any such nuisance.

The provisions of this Article, relating to the closing of a place with respect to obscene or lewd matter, shall not apply in any order of the court to any theatre or motion picture establishment which does not, in the regular, predominant, and ordinary course of its business, show or demonstrate lewd films or motion pictures, as defined in this Article, but any such establishment may be permanently enjoined from showing such film judicially determined to be obscene hereunder and such film or motion picture shall be destroyed and all proceeds and moneys received therefrom, after the issuance of a preliminary injunction, forfeited. (Pub. Loc. 1913, c. 761, s. 29; 1919, c. 288; C.S., s. 3184; 1977, c. 819, s. 6; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.

Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance under the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the

nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any moneys or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal alcoholic beverages or substances proscribed under the North Carolina Controlled Substances Act, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner. (Pub. Loc. 1913, c. 761, s. 30; 1919, c. 288; C.S., s. 3185; 1977, c. 819, s. 7; 1981, c. 412, s. 4; c. 747, s. 66.)

CHAPTER 14. CRIMINAL LAW

SUBCHAPTER XI. GENERAL POLICE REGULATIONS

ARTICLE 37. LOTTERIES, GAMING, BINGO AND RAFFLES

PART 1. LOTTERIES AND GAMING

§ 14-289. Advertising lotteries.

Except in connection with a lawful raffle as provided in Part 2 of this Article, if anyone by writing or printing or by circular or letter or in any other way, advertise or publish an account of a lottery, whether within or without this State, stating how, when or where the same is to be or has been drawn, or what are the prizes therein or any of them, or the price of a ticket or any share or interest therein, or where or how it may be obtained, he shall be guilty of a Class 2 misdemeanor.

§ 14-290. Dealing in lotteries.

Except in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall open, set on foot, carry on, promote, make or draw, publicly or privately, a lottery, by whatever name, style or title the same may be denominated or known; or if any person shall, by such way and means, expose or set to sale any house, real estate, goods, chattels, cash, written evidence of debt, certificates of claims or any other thing of value whatsoever, every person so offending shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed two thousand dollars (\$2,000). Any person who engages in disposing of any species of property whatsoever, including money and evidences of debt, or in any manner distributes gifts or prizes upon tickets, bottle crowns, bottle caps, seals on containers, other devices or certificates sold for that purpose, shall be held liable to prosecution under this section. Any person who shall have in his possession any tickets, certificates or orders used in the operation of any lottery shall be held liable under this section, and the mere possession of such tickets shall be prima facie evidence of the violation of this section.

§ 14-291. Selling lottery tickets and acting as agent for lotteries.

Except in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or otherwise dispose of any lottery ticket or order for any number of shares in any lottery, or shall in anywise be concerned in such lottery, by acting as agent in the State for or on behalf of any such lottery, to be drawn or paid either out of or within the State, such person shall be guilty of a Class 2 misdemeanor.

§ 14-291.1. Selling "numbers" tickets; possession prima facie evidence of violation.

Except in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or cause to be sold or bartered, any ticket, token, certificate or order for any number or shares in any lottery, commonly known as the numbers or butter and egg lottery, or lotteries of similar character, to be drawn or paid within or without the State, such person shall be guilty of a Class 2 misdemeanor. Any person who shall have in his possession any tickets, tokens, certificates or orders used in the operation of any such lottery shall be guilty under this section, and the possession of such tickets shall be prima facie evidence of the violation of this section.

§ 14-291.2. Pyramid and chain schemes prohibited.

(a) No person shall establish, operate, participate in, or otherwise promote any pyramid distribution plan, program, device or scheme whereby a participant pays a valuable consideration for the opportunity or chance to receive a fee or compensation upon the introduction of other participants into the program, whether or not such opportunity or chance is received in conjunction with the purchase of merchandise. A person who establishes or operates a pyramid distribution plan is guilty of a Class H felony. A person who participates in or otherwise promotes a pyramid distribution plan is deemed to participate in a lottery and is guilty of a Class 2 misdemeanor.

(b) "Pyramid distribution plan" means any program utilizing a pyramid or chain process by which a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program; and

"Compensation" does not mean payment based on sales of goods or services to persons who are not participants in the scheme, and who are not purchasing in order to participate in the scheme.

(c) Any judge of the superior court shall have jurisdiction, upon petition by the Attorney General of North Carolina or district attorney of the superior court, to enjoin, as an unfair or deceptive trade practice, the continuation of the scheme described in subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees to the Attorney General or the District

Attorney pursuant to G.S. 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute assets obtained by any defendant through participation in any such scheme.

(d) Any contract hereafter created for which a part of the consideration consisted of the opportunity or chance to participate in a program described in subsection (a) is hereby declared to be contrary to public policy and therefore void and unenforceable.

§ 14-292. Gambling.

Except as provided in Part 2 of this Article, any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor.

§ 14-292.1: Repealed by Session Laws 1983, c. 896, s.2.

§ 14-293. Allowing gambling in houses of public entertainment; penalty.

If any keeper of an ordinary or other house of entertainment, or of a house wherein alcoholic beverages are retailed, shall knowingly suffer any game, at which money or property, or anything of value, is bet, whether the same be in stake or not, to be played in any such house, or in any part of the premises occupied therewith; or shall furnish persons so playing or betting either on said premises or elsewhere with drink or other thing for their comfort or subsistence during the time of play, he shall be guilty of a Class 2 misdemeanor. Any person who shall be convicted under this section shall, upon such conviction, forfeit his license to do any of the businesses mentioned in this section, and shall be forever debarred from doing any of such businesses in this State. The court shall embody in its judgment that such person has forfeited his license, and no board of county commissioners, board of town commissioners or board of aldermen shall thereafter have power or authority to grant to such convicted person or his agent a license to do any of the businesses mentioned herein.

§ 14-294. Gambling with faro banks and tables.

If any person shall open, establish, use or keep a faro bank, or a faro table, with the intent that games of chance may be played thereat, or shall play or bet thereat any money, property or other thing of value, whether the same be in stake or not, he shall be guilty of a Class 2 misdemeanor.

§ 14-295. Keeping gaming tables, illegal punchboards or slot machines, or betting thereat.

If any person shall establish, use or keep any gaming table (other than a faro bank), by whatever name such table may be called, an illegal punchboard or an illegal slot machine, at which games of chance shall be played, he shall be guilty of a Class 2 misdemeanor; and every person who shall play thereat or thereat bet any money, property or other thing of value, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor.

§ 14-296. Illegal slot machines and punchboards defined.

An illegal slot machine or punchboard within the contemplation of G.S. 14-295 through 14-298 is defined as a device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306.

§ 14-297. Allowing gaming tables, illegal punchboards or slot machines on premises.

If any person shall knowingly suffer to be opened, kept or used in his house or on any part of the premises occupied therewith, any of the gaming tables prohibited by G.S. 14-289 through 14-300 or any illegal punchboard or illegal slot machine, he shall forfeit and pay to any one who will sue therefor two hundred dollars (\$200.00), and shall also be guilty of a Class 2 misdemeanor.

§ 14-298. Gaming tables, illegal punchboards and slot machines to be destroyed by police officers.

All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath that any gaming table prohibited to be used by G.S. 14-289 through 14-300, or any illegal punchboard or illegal slot machine is in the possession or use of any person within the limits of their jurisdiction, to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its

destruction.

§ 14-299. Property exhibited by gamblers to be seized; disposition of same.

All moneys or other property or thing of value exhibited for the purpose of alluring persons to bet on any game, or used in the conduct of any such game, including any motor vehicle used in the conduct of a lottery within the purview of G.S. 14-291.1, shall be liable to be seized by any court of competent jurisdiction or by any person acting under its warrant. Moneys so seized shall be turned over to and paid to the treasurer of the county wherein they are seized, and placed in the general fund of the county. Any property seized which is used for and is suitable only for gambling shall be destroyed, and all other property so seized shall be sold in the manner provided for the sale of personal property by execution, and the proceeds derived from said sale shall (after deducting the expenses of keeping the property and the costs of the sale and after paying, according to their priorities all known prior, bona fide liens which were created without the lienor having knowledge or notice that the motor vehicle or other property was being used or to be used in connection with the conduct of such game or lottery) be turned over and paid to the treasurer of the county wherein the property was seized, to be placed by said treasurer in the general fund of the county.

§ 14-300. Opposing destruction of gaming tables and seizure of property.

If any person shall oppose the destruction of any prohibited gaming table, or the seizure of any moneys, property or other thing staked on forbidden games, or shall take and carry away the same or any part thereof after seizure, he shall forfeit and pay to the person so opposed one thousand dollars (\$1,000), for the use of the State and the person so opposed, and shall, moreover, be guilty of a Class 2 misdemeanor.

§ 14-301. Operation or possession of slot machine; separate offenses.

It shall be unlawful for any person, firm or corporation to operate, keep in his possession or in the possession of any other person, firm or corporation, for the purpose of being operated, any slot machine or device where the user may become entitled to receive any money, credit,

allowance, or any thing of value, as defined in G.S. 14-306. Each time said machine is operated as aforesaid shall constitute a separate offense.

§ 14-302. Punchboards, vending machines, and other gambling devices; separate offenses.

It shall be unlawful for any person, firm or corporation to operate or keep in his possession, or the possession of any other person, firm or corporation, for the purpose of being operated, any punchboard, slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306. Each time said punchboard, slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306 is operated, played, or patronized by the paying of money or other thing of value therefor, shall constitute a separate violation of this section as to operation thereunder.

§ 14-303. Violation of two preceding sections a misdemeanor.

A violation of any of the provisions of G.S. 14-301 or 14-302 shall be a Class 2 misdemeanor.

§ 14-304. Manufacture, sale, etc., of slot machines and devices.

It shall be unlawful to manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or to permit the operation of, or for any person to permit to be placed, maintained, used or kept in any room, space or building owned, leased or occupied by him or under his management or control, any slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306.

§ 14-305. Agreements with reference to slot machines or devices made unlawful.

It shall be unlawful to make or permit to be made with any person any agreement with reference to any slot machines or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306 pursuant to which the user thereof may become entitled to receive any money, credit, allowance, or

anything of value or additional chance or right to use such machines or devices, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

§ 14-306. Slot machine or device defined.

Any machine, apparatus or device is a slot machine or device within the provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the insertion of any piece of money or coin or other object, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not

have a chance to make varying scores or tallies.

The definition contained in the first paragraph of this section and G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video games, and devices used for amusement. Included within this exception are pinball machines, video games, and other mechanical devices that involve the use of skill or dexterity to make varying scores or tallies and which, in actual operation, limit to eight the number of accumulated credits or replays that may be played at one time and which may award free replays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding ten dollars (\$10.00), but may not be exchanged or converted to money.

§ 14-307. Issuance of license prohibited.

There shall be no State, county, or municipal tax levied for the privilege of operating the machines or devices the operation of which is prohibited by G.S. 14-304 through 14-309.

§ 14-308. Declared a public nuisance.

An article or apparatus maintained or kept in violation of G.S. 14-304 through 14-309 is a public nuisance.

§ 14-309. Violation made misdemeanor.

Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a Class 2 misdemeanor.

§ 14-309.1. Defense to possession; antique slot machines.

(a) In any prosecution for possession of a slot machine or device as defined in G.S. 14-306, it is a defense that the slot machine was not intended to be used in the operation or promotion of unlawful gambling activity or enterprise and that the slot machine is an antique. For purposes of this section a slot machine manufactured 25 years ago or earlier is conclusively presumed to be an antique.

(b) When a defendant raises the defense provided in subsection (a), any slot machine seized from the defendant shall not be destroyed or otherwise altered until a final court determination is rendered. If the court determines

that the defense has been proved the slot machine shall be returned immediately to the defendant.

Part 2. Bingo and Raffles.

§ 14-309.5. Bingo.

(a) The purpose of the conduct of bingo is to insure a maximum availability of the net proceeds exclusively for application to the charitable, nonprofit causes and undertakings specified herein; that the only justification for this Part is to support such charitable, nonprofit causes; and such purpose should be carried out to prevent the operation of bingo by professionals for profit, prevent commercialized gambling, prevent the disguise of bingo and other game forms or promotional schemes, prevent participation by criminal and other undesirable elements, and prevent the diversion of funds for the purpose herein authorized.

(b) It is lawful for an exempt organization to conduct bingo games in accordance with the provisions of this Part. Any licensed exempt organization who conducts a bingo game in violation of any provision of this Part shall be guilty of a Class 2 misdemeanor. Upon conviction such person shall not conduct a bingo game for a period of one year. It is lawful to participate in a bingo game conducted pursuant to this Part. It shall be a Class I felony for any person:

- (i) to operate a bingo game without a license;
- (ii) to operate a bingo game while license is revoked or suspended;
- (iii) to willfully misuse or misapply any moneys received in connection with any bingo game; or
- (iv) to contract with or provide consulting services to any licensee.

It shall not constitute a violation of any State law to advertise a bingo game conducted in accordance with this Part.

§ 14-309.6. Definitions.

For purposes of this Part, the term:

- (1) "Exempt organization" means an organization that has been in continuous existence in the county of operation of the bingo game for at least one year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code and is exempt under similar provisions of the General Statutes as a bona fide

- nonprofit charitable, civic, religious, fraternal, patriotic or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. (If the organization has local branches or chapters, the term "exempt organization" means the local branch or chapter operating the bingo game);
- (2) "Bingo game" means a specific game of chance played with individual cards having numbered squares ranging from one to 75, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers (but shall not include "instant bingo" which is a game of chance played by the selection of one or more prepackaged cards, with winners determined by the appearance of a preselected designation on the card);
 - (3) Repealed by Session Laws 1983 (Regular Session 1984), c. 1107, s. 5.
 - (4) "Local law-enforcement agency" means for any bingo game conducted outside the corporate limits of a municipality or inside the corporate limits of a municipality having no municipal police force:
 - a. The county police force; or
 - b. The county sheriff's office in a county with no county police force;
 - (5) "Local law-enforcement agency" means the municipal police for any bingo game conducted within the corporate limits of a municipality having a police force;
 - (6) "Beach bingo games" means bingo games which have prizes of ten dollars (\$10.00) or less or merchandise that is not redeemable for cash and that has a value of ten dollars (\$10.00) or less; and
 - (7) "Licensed exempt organization" means an exempt organization which possesses a currently valid license.

§ 14-309.7. Licensing procedure.

- (a) An exempt organization may not operate a bingo game at a location without a license. Application for a bingo license shall be made to the Department of Human

Resources on a form prescribed by the Department. The Department shall charge an annual application fee of one hundred dollars (\$100.00) to defray the cost of issuing bingo licenses and handling bingo audit reports. The fees collected shall be deposited in the General Fund of the State. This license shall expire one year after the granting of the license. This license may be renewed yearly, if the applicant pays the application fee and files an audit with the Department pursuant to G.S. 14-309.11. A copy of the application and license shall be furnished to the local law-enforcement agency in the county or municipality in which the licensee intends to operate before bingo is conducted by the licensee.

(b) Each application and renewal application shall contain the following information:

(1) The name and address of the applicant and if the applicant is a corporation, association or other similar legal entity, the name and home address of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization.

(2) The name and home address of each of the members of the special committee.

(3) A copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service and the Department of Revenue that indicates that the organization is an exempt organization and stating the section under which that exemption is granted; except that if the organization is a State or local branch, lodge, post, or chapter of a national organization, a copy of the determination letter of the national organization satisfies this requirement.

(4) The location at which the applicant will conduct the bingo games. If the premises are leased, a copy of the lease or rental agreement.

(c) In order for an exempt organization to have a member familiar with the operation of bingo present on the premises at all times when bingo is being played and for this member to be responsible for the receiving, reporting and depositing of all revenues received, the exempt organization may pay one member for conducting a bingo game. Such pay shall be on an hourly basis only for the time bingo is actually being played and shall not exceed one and

one-half times the existing minimum wage in North Carolina. The member paid under this provision shall be a member in good standing of the exempt organization for at least one year and shall not be the lessor or an employee or agent of the lessor. No other person may be compensated for conducting a bingo game from funds derived from any activities occurring in, or simultaneously with, the playing of bingo, including funds derived from concessions. An exempt organization shall not contract with any person for the purpose of conducting a bingo game. Except as provided in subsection (e) of this section, an exempt organization may hold a bingo game only in or on property owned (either legally or equitably and the buildings must be of a permanent nature with approved plumbing for bathrooms and not movable or of a temporary nature such as a tent or lean-to) or leased by the organization from the owner or bona fide property management agent (no subleasing is permitted) at a total monthly rental in an amount not to exceed one and one-quarter percent (1 1/4%) of the total assessed ad valorem tax value of the portion of the building actually used for the bingo games and the land value on which the building is located (not to exceed two acres) for all activities conducted therein including the playing of bingo for a period of not less than one year and actually occupied and used by that organization on a regular basis for purposes other than bingo for at least six months before the game; and all equipment used by the exempt organization in conducting the bingo game must be owned by the organization. Unless the exempt organization leases the property in accordance with this subsection, an exempt organization may conduct a bingo game only in or on property that is exempt from property taxes levied under Subchapter II of Chapter 105 of the General Statutes, or that is classified and not subject to any property taxes levied under Subchapter II of Chapter 105 of the General Statutes. It shall be unlawful for any person to operate beach bingo games at a location which is being used by any licensed exempt organization for the purpose of conducting bingo games.

(d) Conduct of a bingo game or raffle under this Part on such property shall not operate to defeat an exemption or classification under Subchapter II of Chapter 105 of the General Statutes.

(e) An exempt organization that wants to conduct only an annual or semiannual bingo game may apply to the Department of Human Resources for a limited occasion permit.

The Department of Human Resources may require such information as is reasonable and necessary to determine that the bingo game is conducted in accordance with the provisions of this Part but may not require more information than previously specified in this section for application of a regular license. The application shall be made to the Department on prescribed forms at least 30 days prior to the scheduled date of the bingo game. In lieu of the reporting requirements of G.S. 14-309.11(b) the exempt organization shall file with the licensing agency and local law-enforcement a report on prescribed forms no later than 30 days following the conduct of the bingo game for which the permit was obtained. Such report may require such information as is reasonable and necessary to determine that the bingo game was conducted in accordance with the provisions of this Part but may not require more information than specified in G.S. 14-309.11(b). Any licensed exempt organization may donate or loan its equipment or use of its premises to an exempt organization which has secured a limited occasion permit provided such arrangement is disclosed in the limited occasion permit application and is approved by the Department of Human Resources. Except as stated above, all provisions of this Part shall apply to any exempt organization operating a bingo game under this provision.

§ 14-309.8. Limit on sessions.

The number of sessions of bingo conducted or sponsored by an exempt organization shall be limited to two sessions per week and such sessions must not exceed a period of five hours each per session. No two sessions of bingo shall be held within a 48-hour period of time. No more than two sessions of bingo shall be operated or conducted in any one building, hall or structure during any one calendar week and if two sessions are held, they must be held by the same exempt organization. This section shall not apply to bingo games conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

§ 14-309.9. Bingo prizes.

(a) The maximum prize in cash or merchandise that may be offered or paid for any one game of bingo is five hundred dollars (\$500.00). The maximum aggregate amount of

prizes, in cash and/or merchandise, that may be offered or paid at any one session of bingo is one thousand five hundred dollars (\$1,500). Provided, however, that if an exempt organization holds only one session of bingo during a calendar week, the maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session is two thousand five hundred dollars (\$2,500).

(b) Repealed by Session Laws 1983 (Regular Session 1984), c. 1107, s. 8.

(c) This section shall not apply to bingo games conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

§ 14-309.10. Operation of bingo.

The operation of bingo games shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the exempt organization in the manner provided by the rules of the exempt organization.

§ 14-309.11. Accounting and use of proceeds.

(a) All funds received in connection with a bingo game shall be placed in a separate bank account. No funds may be disbursed from this account except the exempt organization may expend proceeds for prizes, advertising, utilities, and the purchase of supplies and equipment used [in conducting the raffle and] in playing bingo, taxes and license fees related to bingo and the payment of compensation as authorized by G.S. 14-309.7(c) and for the purposes set forth below for the remaining proceeds. Such payments shall be made by consecutively numbered checks. Any proceeds available in the account after payment of the above expenses shall inure to the exempt organization to be used for religious, charitable, civic, scientific, testing, public safety, literary, or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land or a building or improvements thereto owned by and for the exempt organization and used for civic purposes or made available by the exempt organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended for social functions for the members of the exempt organization.

(b) An audit of the account required by subsection (a)

of this section shall be prepared annually for the period of January 1 through December 31 or otherwise as directed by the Department of Health and Human Services and shall be filed with the Department of Health and Human Services and the local law-enforcement agency at a time directed by the Department of Health and Human Services. The audit shall be prepared on a form approved by the Department of Health and Human Services and shall include the following information:

- (1) The number of bingo games conducted or sponsored by the exempt organization;
- (2) The location and date at which each bingo game was conducted and the prize awarded;
- (3) The gross receipts of each bingo game;
- (4) The cost or amount of any prize given at each bingo game;
- (5) The amount paid in prizes at each session;
- (6) The net return to the exempt organization; and
- (7) The disbursements from the separate account and the purpose of those disbursements, including the date of each transaction and the name and address of each payee.

(c) Any person who shall willfully furnish, supply, or otherwise give false information in any audit or statement filed pursuant to this section shall be guilty of a Class 2 misdemeanor.

(d) All books, papers, records and documents relevant to determining whether an organization has acted or is acting in compliance with this section shall be open to inspection by the law-enforcement agency or its designee, or the district attorney or his designee, or the Department of Health and Human Services at reasonable times and during reasonable hours.

§ 14-309.12. Violation is gambling.

A bingo game conducted otherwise than in accordance with the provisions of this Part is "gambling" within the meaning of G.S. 19-1 et seq., and proceedings against such bingo game may be instituted as provided for in Chapter 19 of the General Statutes.

§ 14-309.13. Public sessions.

Any exempt organization operating a bingo game which is open to persons other than members of the exempt organization, their spouses, and their children shall make

such bingo game open to the general public.

§ 14-309.14. Beach bingo.

Nothing in this Article shall apply to "beach bingo" games except for the following subdivisions:

- (1) No beach bingo game may offer a prize having a value greater than ten dollars (\$10.00). Any person offering a greater than ten-dollar (\$10.00) but less than fifty-dollar (\$50.00) prize is guilty of a Class 2 misdemeanor. Any person offering a prize of fifty dollars (\$50.00) or greater is guilty of a Class I felony.
- (2) No beach bingo game may be held in conjunction with any other lawful bingo game, with any "promotional bingo game", or with any offering of an opportunity to obtain anything of value, whether for valuable consideration or not. No beach bingo game may offer free bingo games as a promotion, for prizes or otherwise. Any person who violates this subsection is guilty of a Class I felony.
- (3) G.S. 18B-308 shall apply to beach bingo games.
- (4) Upon conviction under any provision of this section, such person shall not conduct a bingo game for a period of at least one year.

§ 14-309.15. Raffles.

(a) It is lawful for any nonprofit organization or association, recognized by the Department of Revenue as tax-exempt pursuant to G.S. 105-130.11(a), to conduct raffles in accordance with this section. Any person who conducts a raffle in violation of any provision of this section shall be guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle for a period of one year. It is lawful to participate in a raffle conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle conducted in accordance with this section. A raffle conducted pursuant to this section is not "gambling".

(b) For purposes of this section "raffle" means a game in which the prize is won by random drawing of the name or number of one or more persons purchasing chances.

(c) Raffles shall be limited to two per nonprofit organization per year.

(d) The maximum cash prize that may be offered or paid for any one raffle is ten thousand dollars (\$10,000) and if merchandise is used as a prize, and it is not redeemable for cash, the maximum fair market value of that prize may be fifty thousand dollars (\$50,000). No real property may be offered as a prize in a raffle. The total cash prizes offered or paid by any nonprofit organization or association may not exceed ten thousand dollars (\$10,000) in any calendar year. The total fair market value of all prizes offered by any nonprofit organization or association, either in cash or in merchandise that is not redeemable for cash, may not exceed fifty thousand dollars (\$50,000) in any calendar year.

(e) Raffles shall not be conducted in conjunction with bingo.

(f) As used in this subsection, "net proceeds of a raffle" means the receipts less the cost of prizes awarded. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the nonprofit organization or association for charitable, religious, educational, civic, or other nonprofit purposes. None of the net proceeds of the raffle may be used to pay any person to conduct the raffle, or to rent a building where the tickets are received or sold or the drawing is conducted.

CHAPTER 16. GAMING CONTRACTS AND FUTURES

ARTICLE 1.

Gaming Contracts.

§ 16-1. Gaming and betting contracts void.

All wagers, bets or stakes made to depend upon any race, or upon any gaming by lot or chance, or upon any lot, chance, casualty or unknown or contingent event whatever, shall be unlawful; and all contracts, judgments, conveyances and assurances for and on account of any money or property, or thing in action, so wagered, bet or staked, or to repay, or to secure any money, or property, or thing in action, lent or advanced for the purpose of such wagering, betting, or staking as aforesaid, shall be void. (1810, c. 796, P.R.; R.C., c. 51, ss. 1, 2; Code, ss. 2841, 2842; Rev., s. 1687; C.S., s. 2142.)

§ 16-2. Players and betters competent witnesses.

No person shall be excused or incapacitated from confessing or testifying touching any money or property, or thing in action, so wagered, bet or staked, or lent for such purpose, by reason of his having won, played, bet or staked upon any game, lot or chance, casualty, or unknown or contingent event aforesaid; but the confession or testimony of such person shall not be used against him, in any criminal prosecution, on account of such betting, wagering or staking.(R.C., c. 51, s. 3; Code, s. 2843; Rev., s. 1688; C.S., s. 2143.)

ARTICLE 2.

Contracts for "Futures."

§ 16-3. Certain contracts as to "futures" void.

Every contract, whether in writing or not, whereby any person shall agree to sell and deliver any cotton, Indian corn, wheat, rye, oats, tobacco, meal, lard, bacon, salt pork, salt fish, beef, cattle, sugar, coffee, stocks, bonds, and choses in action, at a place and at a time specified and agreed upon therein, to any other person, whether the person to whom such article is so agreed to be sold and delivered shall be a party to such contract or not, when, in fact, and notwithstanding the terms expressed of such contract, it is not intended by the parties thereto that the articles or things so agreed to be sold and delivered shall be actually delivered, or the value thereof paid, but it is intended and understood by them that money or other thing of value shall be paid to the one party by the other, or to a third party, the party to whom such payment of money or other thing of value shall be made to depend, and the amount of such money or other thing of value so to be paid to depend upon whether the market price or value of the article so agreed to be sold and delivered is greater or less at the time and place so specified than the price stipulated to be paid and received for the articles so to be sold and delivered, and every contract commonly called "futures" as to the several articles and things hereinbefore specified, or any of them, by whatever other name called, and every contract as to the said several articles and things, or any of them, whereby the parties thereto contemplate and intend no real transaction as to the article or thing agreed to be delivered, but only the payment of a sum of money or other thing of value, such payment and the amount thereof and the

person to whom the same is to be paid to depend on whether or not the market price or value is greater or less than the price so agreed to be paid for the said article or thing at the time and place specified in such contract, shall be utterly null and void; and no action shall be maintained in any court to enforce any such contract, whether the same was made in or out of the State, or partly in and partly out of this State, and whether made by the parties thereto by themselves or by or through their agents, immediately or mediately; nor shall any party to any such contract, or any agent of any such party, directly or remotely connected with any such contract in any way whatever, have or maintain any action or cause of action on account of any money or other thing of value paid or advanced or hypothecated by him or them in connection with or on account of such contract and agency; nor shall the courts of this State have any jurisdiction to entertain any suit or action brought upon a judgment based upon any such contract. This section shall not be construed so as to apply to any person, firm or corporation, or his or their agents, engaged in the business of manufacturing or wholesale merchandising in the purchase and/or sale of the necessary commodities required in the ordinary course of their business; nor shall this section be construed so as to apply to any contract with respect to the purchase and/or sale for future delivery of any of the articles or things mentioned and referred to in this section, where such purchase and/or sale is made on any exchange on which any such article or things are regularly bought and sold, or contracts therefor regularly entered into, and the rules and regulations of such exchange are such that either party to such contract may require delivery thereof: Provided, such contract is made in accordance with such rules and regulations.(1889, c. 221, s. 1; 1905, c. 538, s. 7; Rev., s. 1689; 1909, c. 853, s. 1; C.S., s. 2144; 1931, c. 236, s. 1.)

§ 16-4. Entering into or aiding contract for "futures" misdemeanor.

If any person shall become a party to any contract declared void in this Article; or if any person shall be the agent, directly or indirectly, of any party in making or furthering or effectuating the same; or if any agent or officer of a corporation shall in any manner knowingly aid in making or furthering any such contract to which the corporation is a party, he shall be guilty of a Class 1 misdemeanor.

If any person shall, while in this State, consent to

become a party to any such contract made in another state, and if any person shall, as agent of any person or corporation, become a party to any such contract made in another state, or in this State do any act or in any way aid in the making or furthering of any such contract so made in another state, he shall be guilty of a Class 1 misdemeanor.(1889, c. 221, ss. 3, 4; Rev., ss. 3823, 3824; C.S., s. 2147; 1993, c. 539, s. 304; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 16-5. Opening office for sales of "futures" misdemeanor.

If any person, corporation or other association of persons, either as principal or agent, shall establish or open an office or place of business in this State for the purpose of carrying on or engaging in making such contracts as are forbidden in this Article, he shall be guilty of a Class 1 misdemeanor.(1905, c. 538, ss. 1, 2; Rev., s. 3825; C.S., s. 2148; 1993, c. 539, s. 305; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 16-6. Evidence in prosecutions under this Article.

No person shall be excused on any prosecution under the provisions of this Article from testifying touching anything done by himself or others contrary to the provisions thereof, but no discovery made by the witness upon such examination shall be used against him in any penal or criminal prosecution, and he shall be altogether pardoned of the offense so done or participated in by him. In all such prosecutions proof that the defendant was a party to a contract, as agent or principal, to sell and deliver any article, thing or property specified or named in this Article, or that he was the agent, directly or indirectly, of any party in making, furthering or effectuating the same, or that he was the agent or officer of any corporation or association or person in making, furthering or effectuating the same, and that the article, thing or property agreed to be sold and delivered was not actually delivered, and that settlement was made or agreed to be made upon the difference in value of said article, thing or property, shall constitute against such defendant prima facie evidence of guilt. Proof that any person, corporation or other association of persons, either as principal or agent, has established an office or place where are posted or published from information received the fluctuating prices of grain, cotton, provisions, stocks, bonds and other commodities, or of any one or more of the same, shall

constitute prima facie evidence of being guilty of violating the provisions of this Article.

(1905, c. 538, ss. 3, 4, 5; Rev., s. 3826; C.S., s. 2149.)

CHAPTER 18B. REGULATION OF ALCOHOLIC BEVERAGES

ARTICLE 10. RETAIL ACTIVITY

§ 18B-1005. Conduct on licensed premises.

(a) Certain Conduct. -- It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

- (1) Any violation of this Chapter;
- (2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons;
- (3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts;
- (4) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;
- (5) Any entertainment that includes or simulates sexual intercourse or any other sexual act; or
- (6) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.

(b) Supervision. -- It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.(1943, c. 400, s. 6; 1945, c. 708, s. 6; c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 13, 15; c. 1251, s. 3; 1957, c. 1048; 1959, c. 745, s. 2; 1963, c. 426, ss. 6, 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 30; c. 1295; c. 1452, s. 4; 1977, c. 176, ss. 1-3; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, ss. 18, 19.)

CHAPTER 19. OFFENSES AGAINST PUBLIC MORALS

ARTICLE 1. ABATEMENT OF NUISANCES

§ 19-1. What are nuisances under this Chapter.

(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance.

(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.

(c) The building, or place, or vehicle, or the ground itself, in or upon which a nuisance as defined in subsections (a) or (b) above is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.(Pub. Loc. 1913, c. 761, s. 25; 1919, c. 288; C.S., s. 3180; 1949, c. 1164; 1967, c. 142; 1971, c. 655; 1977, c. 819, ss. 1, 2; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-1.1. Definitions.

As used in this Chapter relating to illegal possession or sale of obscene matter or to the other conduct prohibited in G.S. 19-1(a), the following definitions shall apply:

- (1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution which occur on the premises.
- (2) "Lewd matter" is synonymous with "obscene matter" and means any matter:
 - a. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - b. Which depicts patently offensive representations of:
 1. Ultimate sexual acts, normal or perverted, actual or simulated;
 2. Masturbation, excretory functions, or lewd

exhibition of the genitals or genital area;

3. Masochism or sadism; or

4. Sexual acts with a child or animal.

Nothing herein contained is intended to include or proscribe any writing or written material, nor to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.

- (3) "Lewdness" is synonymous with obscenity and shall mean the act of selling, exhibiting or possessing for sale or exhibition lewd matter.
- (4) "Matter" means a motion picture film or a publication or both.
- (5) "Motion picture film" shall include any:
 - a. Film or plate negative;
 - b. Film or plate positive;
 - c. Film designed to be projected on a screen for exhibition;
 - d. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;
 - e. Video tape or any other medium used to electronically reproduce images on a screen.
- (6) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.
- (7) "Place" includes, but is not limited to, any building, structure or places, or any separate part or portion thereof, whether permanent or not, or the ground itself, but excluding a private dwelling place not used for a profit.
- (8) "Publication" shall include any book, magazine, pamphlet, illustration, photograph, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.
- (9) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter.(1977, c. 819, s. 3; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-1.2. Types of nuisances.

The following are declared to be nuisances wherein obscene or lewd matter or other conduct prohibited in G.S. 19-1(a) is involved:

- (1) Any and every place in the State where lewd films are publicly exhibited as a predominant and regular course of business, or possessed for the purpose of such exhibition;
- (2) Any and every place in the State where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;
- (3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a nuisance under this Article;
- (4) Any and every place of business in the State in which lewd publications constitute a principal or substantial part of the stock in trade;
- (5) Any and every lewd publication possessed at a place which is a nuisance under this Article;
- (6) Every place which, as a regular course of business, is used for the purposes of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution, and every such place in or upon which acts of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or prostitution, are held or occur.(1977, c. 819, s. 3; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-1.3. Personal property as a nuisance; knowledge of nuisance.

The following are also declared to be nuisances, as personal property used in conducting and maintaining a nuisance under this Chapter:

- (1) All moneys paid as admission price to the exhibition of any lewd film found to be a nuisance;
- (2) All valuable consideration received for the sale of any lewd publication which is found to be a nuisance;
- (3) All money or other valuable consideration received or used in gambling, prostitution, the

illegal sale of alcoholic beverages or the illegal sale of substances proscribed under the North Carolina Controlled Substances Act, as well as the furniture and movable contents of a place used in connection with such prohibited conduct.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in G.S. 19-2.4 upon the place, or its manager, or acting manager, or person then in charge, all such parties are deemed to have knowledge of the contents of the restraining order and the use of the place occurring thereafter. Where the circumstantial proof warrants a determination that a person had knowledge of the nuisance prior to such service of process, the court may make such finding.(1977, c. 819, s. 3; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-3. Priority of action; evidence.

(a) The action provided for in this Chapter shall be set down for trial at the first term of the court and shall have precedence over all other cases except crimes, election contests, or injunctions.

(b) In such action, an admission or finding of guilt of any person under the criminal laws against lewdness, assignation, prostitution, gambling, the illegal possession or sale of alcoholic beverages, or the illegal possession or sale of substances proscribed by the North Carolina Controlled Substances Act, at any such place, is admissible for the purpose of proving the existence of said nuisance, and is evidence of such nuisance and of knowledge of, and of acquiescence and participation therein, on the part of the person charged with maintaining said nuisance.

(c) At all hearings upon the merits, evidence of the general reputation of the building or place constituting the alleged nuisance, of the inmates thereof, and of those resorting thereto, is admissible for the purpose of proving the existence of such nuisance.(Pub. Loc. 1913, c. 761, s. 27; 1919, c. 288; C.S., s. 3182; 1971, c. 528, s. 6; 1973, c. 47, s. 2; 1977, c. 819, s. 5; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-5. Content of final judgment and order.

If the existence of a nuisance is admitted or established in an action as provided for in this Chapter an order of abatement shall be entered as a part of the judgment in the case, which judgment and order shall

perpetually enjoin the defendant and any other person from further maintaining the nuisance at the place complained of, and the defendant from maintaining such nuisance elsewhere within the jurisdiction of this State. Lewd matter, illegal alcoholic beverages, gambling paraphernalia, or substances proscribed under the North Carolina Controlled Substances Act shall be destroyed and not be sold.

Such order may also require the effectual closing of the place against its use thereafter for the purpose of conducting any such nuisance.

The provisions of this Article, relating to the closing of a place with respect to obscene or lewd matter, shall not apply in any order of the court to any theatre or motion picture establishment which does not, in the regular, predominant, and ordinary course of its business, show or demonstrate lewd films or motion pictures, as defined in this Article, but any such establishment may be permanently enjoined from showing such film judicially determined to be obscene hereunder and such film or motion picture shall be destroyed and all proceeds and moneys received therefrom, after the issuance of a preliminary injunction, forfeited. (Pub. Loc. 1913, c. 761, s. 29; 1919, c. 288; C.S., s. 3184; 1977, c. 819, s. 6; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.

Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance under the provisions of G.S. 19-1.3 and other sections of this Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as

partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any moneys or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal alcoholic beverages or substances proscribed under the North Carolina Controlled Substances Act, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner. (Pub. Loc. 1913, c. 761, s. 30; 1919, c. 288; C.S., s. 3185; 1977, c. 819, s. 7; 1981, c. 412, s. 4; c. 747, s. 66.)

CHAPTER 114. DEPARTMENT OF JUSTICE

ARTICLE 4. STATE BUREAU OF INVESTIGATION

ARTICLE 1.

Gaming Contracts.

§ 16-1. Gaming and betting contracts void.

All wagers, bets or stakes made to depend upon any race, or upon any gaming by lot or chance, or upon any lot, chance, casualty or unknown or contingent event whatever, shall be unlawful; and all contracts, judgments, conveyances and assurances for and on account of any money or property, or thing in action, so wagered, bet or staked, or to repay, or to secure any money, or property, or thing in action, lent or advanced for the purpose of such wagering, betting, or staking as aforesaid, shall be void. (1810, c. 796, P.R.; R.C., c. 51, ss. 1, 2; Code, ss. 2841, 2842; Rev., s. 1687; C.S., s. 2142.)

§ 16-2. Players and betters competent witnesses.

No person shall be excused or incapacitated from confessing or testifying touching any money or property, or thing in action, so wagered, bet or staked, or lent for such purpose, by reason of his having won, played, bet or staked upon any game, lot or chance, casualty, or unknown or contingent event aforesaid; but the confession or testimony of such person shall not be used against him, in any criminal prosecution, on account of such betting, wagering or staking.(R.C., c. 51, s. 3; Code, s. 2843; Rev., s. 1688; C.S., s. 2143.)

ARTICLE 2.

Contracts for "Futures."

§ 16-3. Certain contracts as to "futures" void.

Every contract, whether in writing or not, whereby any person shall agree to sell and deliver any cotton, Indian corn, wheat, rye, oats, tobacco, meal, lard, bacon, salt pork, salt fish, beef, cattle, sugar, coffee, stocks, bonds, and choses in action, at a place and at a time specified and agreed upon therein, to any other person, whether the person to whom such article is so agreed to be sold and delivered shall be a party to such contract or not, when, in fact, and notwithstanding the terms expressed of such contract, it is not intended by the parties thereto that the articles or things so agreed to be sold and delivered shall be actually delivered, or the value thereof paid, but it is intended and understood by them that money or other thing of value shall be paid to the one party by the other, or to a third party, the party to whom such payment of money or other thing of value shall be made to depend, and the amount of such money or other thing of value so to be paid to depend upon whether the market price or value of the article so agreed to be sold and delivered is greater or less at the time and place so specified than the price stipulated to be paid and received for the articles so to be sold and delivered, and every contract commonly called "futures" as to the several articles and things hereinbefore specified, or any of them, by whatever other name called, and every contract as to the said several articles and things, or any of them, whereby the parties thereto contemplate and intend no real transaction as to the article or thing agreed to be delivered, but only the payment of a sum of money or other thing of value, such payment and the amount thereof and the

person to whom the same is to be paid to depend on whether or not the market price or value is greater or less than the price so agreed to be paid for the said article or thing at the time and place specified in such contract, shall be utterly null and void; and no action shall be maintained in any court to enforce any such contract, whether the same was made in or out of the State, or partly in and partly out of this State, and whether made by the parties thereto by themselves or by or through their agents, immediately or mediately; nor shall any party to any such contract, or any agent of any such party, directly or remotely connected with any such contract in any way whatever, have or maintain any action or cause of action on account of any money or other thing of value paid or advanced or hypothecated by him or them in connection with or on account of such contract and agency; nor shall the courts of this State have any jurisdiction to entertain any suit or action brought upon a judgment based upon any such contract. This section shall not be construed so as to apply to any person, firm or corporation, or his or their agents, engaged in the business of manufacturing or wholesale merchandising in the purchase and/or sale of the necessary commodities required in the ordinary course of their business; nor shall this section be construed so as to apply to any contract with respect to the purchase and/or sale for future delivery of any of the articles or things mentioned and referred to in this section, where such purchase and/or sale is made on any exchange on which any such article or things are regularly bought and sold, or contracts therefor regularly entered into, and the rules and regulations of such exchange are such that either party to such contract may require delivery thereof: Provided, such contract is made in accordance with such rules and regulations.(1889, c. 221, s. 1; 1905, c. 538, s. 7; Rev., s. 1689; 1909, c. 853, s. 1; C.S., s. 2144; 1931, c. 236, s. 1.)

§ 16-4. Entering into or aiding contract for "futures" misdemeanor.

If any person shall become a party to any contract declared void in this Article; or if any person shall be the agent, directly or indirectly, of any party in making or furthering or effectuating the same; or if any agent or officer of a corporation shall in any manner knowingly aid in making or furthering any such contract to which the corporation is a party, he shall be guilty of a Class 1 misdemeanor.

If any person shall, while in this State, consent to

become a party to any such contract made in another state, and if any person shall, as agent of any person or corporation, become a party to any such contract made in another state, or in this State do any act or in any way aid in the making or furthering of any such contract so made in another state, he shall be guilty of a Class 1 misdemeanor.(1889, c. 221, ss. 3, 4; Rev., ss. 3823, 3824; C.S., s. 2147; 1993, c. 539, s. 304; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 16-5. Opening office for sales of "futures" misdemeanor.

If any person, corporation or other association of persons, either as principal or agent, shall establish or open an office or place of business in this State for the purpose of carrying on or engaging in making such contracts as are forbidden in this Article, he shall be guilty of a Class 1 misdemeanor.(1905, c. 538, ss. 1, 2; Rev., s. 3825; C.S., s. 2148; 1993, c. 539, s. 305; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 16-6. Evidence in prosecutions under this Article.

No person shall be excused on any prosecution under the provisions of this Article from testifying touching anything done by himself or others contrary to the provisions thereof, but no discovery made by the witness upon such examination shall be used against him in any penal or criminal prosecution, and he shall be altogether pardoned of the offense so done or participated in by him. In all such prosecutions proof that the defendant was a party to a contract, as agent or principal, to sell and deliver any article, thing or property specified or named in this Article, or that he was the agent, directly or indirectly, of any party in making, furthering or effectuating the same, or that he was the agent or officer of any corporation or association or person in making, furthering or effectuating the same, and that the article, thing or property agreed to be sold and delivered was not actually delivered, and that settlement was made or agreed to be made upon the difference in value of said article, thing or property, shall constitute against such defendant prima facie evidence of guilt. Proof that any person, corporation or other association of persons, either as principal or agent, has established an office or place where are posted or published from information received the fluctuating prices of grain, cotton, provisions, stocks, bonds and other commodities, or of any one or more of the same, shall

constitute prima facie evidence of being guilty of violating the provisions of this Article.

(1905, c. 538, ss. 3, 4, 5; Rev., s. 3826; C.S., s. 2149.)

CHAPTER 127A. MILITIA

ARTICLE 12. GENERAL PROVISIONS

§ 19-5. Content of final judgment and order.

If the existence of a nuisance is admitted or established in an action as provided for in this Chapter an order of abatement shall be entered as a part of the judgment in the case, which judgment and order shall perpetually enjoin the defendant and any other person from further maintaining the nuisance at the place complained of, and the defendant from maintaining such nuisance elsewhere within the jurisdiction of this State. Lewd matter, illegal alcoholic beverages, gambling paraphernalia, or substances proscribed under the North Carolina Controlled Substances Act shall be destroyed and not be sold.

Such order may also require the effectual closing of the place against its use thereafter for the purpose of conducting any such nuisance.

The provisions of this Article, relating to the closing of a place with respect to obscene or lewd matter, shall not apply in any order of the court to any theatre or motion picture establishment which does not, in the regular, predominant, and ordinary course of its business, show or demonstrate lewd films or motion pictures, as defined in this Article, but any such establishment may be permanently enjoined from showing such film judicially determined to be obscene hereunder and such film or motion picture shall be destroyed and all proceeds and moneys received therefrom, after the issuance of a preliminary injunction, forfeited. (Pub. Loc. 1913, c. 761, s. 29; 1919, c. 288; C.S., s. 3184; 1977, c. 819, s. 6; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 19-6. Civil penalty; forfeiture; accounting; lien as to expenses of abatement; invalidation of lease.

Lewd matter is contraband, and there are no property rights therein. All personal property, including all money and other considerations, declared to be a nuisance under the provisions of G.S. 19-1.3 and other sections of this

Article, are subject to forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited or otherwise used. Such property including moneys may be traced to and shall be recoverable from persons who, under G.S. 19-2.4, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendant or defendants in legal proceedings brought pursuant to this Article, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a nuisance under this Article. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such activity took place, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise, and as partial restitution for damages done to the public welfare; provided, however, that no provision of this Article shall authorize the recovery of any moneys or gross income received from the sale of any book, magazine, or exhibition of any motion picture prior to the issuance of a preliminary injunction. Where the action is brought pursuant to this Article, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to, reasonable attorney's fees and court costs.

If it is judicially found after an adversary hearing pursuant to this Article that a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness, assignation, prostitution, gambling, sale or possession of illegal alcoholic beverages or substances proscribed under the North Carolina Controlled Substances Act, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner. (Pub. Loc. 1913, c. 761, s. 30; 1919, c. 288; C.S., s. 3185; 1977, c. 819, s. 7; 1981, c. 412, s. 4; c. 747, s. 66.)